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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Programmatic Requirements2) Code Citation: 89 Ill. Adm. Code 2203) Section Numbers: Proposed Action:220.625 Amendment
220.635 Amendment4) Statutory Authority: Ill. Compiled Stat. 1992, ch. 20,
Sections 105/4.01(4), (9), (11)
and (12); 105/4.02, 105/4.03 and
105/5.025) A Complete Description of the Subjects and Issues Involved:

The ability for an agency to provide case management service under Title III of the Older Americans Act and under the Community Care Program (CCP) is predicated on the agency being designated as a Case Coordination Unit (CCU). This designation is accomplished by entering into a contract or grant with the Area Agency on Aging (AAA) for Title III case management services and with the Department to provide Community Care Program case management services (Section 240.600(a)) through a procurement process.

The current rules require that the entire RFP package, including the complete set of CCU and CCP rules be sent by the AAA to every agency that is on an "interested bidder list." This requires the copying, mailing and processing of more than 450 pages to each listed agency which has only "expressed" an interest in receiving funding from the Department or AAA. The Department has found from information obtained during the FY93 CCU procurement process that the actual number of agencies who "bid" for CCU designation are far fewer than those agencies listed on the interested bidder list; and, that copying, mailing and processing costs for an entire RFP package to all agencies on the interested bidder list was substantially costly. For example, in Suburban Cook County and the City of Chicago, there are hundreds of agencies listed on the interested bidder list. In Suburban Cook County alone the cost of copying, mailing and processing this package to everyone on their list would be approximately \$4,653.00; and, in the City of Chicago, where there are 360 agencies on the interested bidder list, costs would at least be double the costs incurred in Suburban Cook County. Such cost savings

NOTICE OF PROPOSED AMENDMENTS

could be redistributed to where the dollars are needed most - service provision.

The purpose of this rulemaking is to allow the Department and the AAAs to reduce administrative costs and to allow the AAAs to reallocate such costs savings to service provision, thereby ensuring that the limited resources of the Older Americans Act Programs and the Community Care Program are distributed equitably and distributed most specifically to those elderly in the greatest economic and social need pursuant to Departmental rule requirements and statutory mandates.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date?
Yes X No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: N/A

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking by writing to Ms. Mary J. Mayes, Policy and Rules Analyst, Illinois Department on Aging, 421 East Capitol Avenue, Springfield, Illinois 62701 within 45 days after the date of this issue of the Illinois Register.

These rule amendments will have an impact on small businesses. In accordance with Sections 100/1-20 and 100/5-20 of the Illinois Administrative Procedure Act, any small business may present their comments to Mary J. Mayes at the above address.

Any small business (as defined in Section 100/1-75 of the Illinois Administrative Procedure Act) commenting on these rule amendments shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

ILLINOIS REGISTER

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 11, 1993
- B) Types of small businesses affected:
Area Agencies on Aging.
- C) Reporting, bookkeeping or other procedures required for compliance:
No change from previously established requirements.
- D) Types of professional skills necessary for compliance:
No change from previously established requirements.

The full text of the Proposed Amendments are identical to the text of the Emergency Amendments which appear in this issue of the Register on page 1182.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED RULEMAKING

- 1) Heading of the Part: Claimant's Reason For Separation From Work
- 2) Code Citation: 56 Ill. Adm. Code 2840
- 3) Section Numbers: Proposed Action:
2840.25 New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 48, pars. 432, 610 and 611.
- 5) A Complete Description of the Subjects and Issues Involved:
The enclosed new section explains what is meant by the phrase "...has harmed the employing unit or other employees" in Section 602 of the Act (Ill. Rev. Stat. 1991, ch. 48, par. 432).
- 6) Will the proposed amendment replace an emergency amendment currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed amendment contain incorporations by reference? No.
- 9) Are there any other proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives? Not Applicable.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: All persons who submit a request to comment regarding this proposed amendment within 20 days after this notice has been published in the ILLINOIS REGISTER will be given a reasonable opportunity to submit data, views, arguments or comments. The request shall be addressed to:

Gregory J. Ramel, Acting Commissioner
Illinois Department of Employment Security
401 South State Street - 2nd Floor South
Chicago, IL 60605
312-793-4240

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED RULEMAKING

12) Initial Regulatory Flexibility Analysis:

Date rules were submitted to the Small Business Office of the Department of Commerce and Community Affairs: January 15, 1993.

Types of small businesses affected: This rulemaking has the same affect on all small businesses.

Reporting, bookkeeping or other procedures required for compliance: None.

Types of professional skills necessary for compliance: None.

The full text of the Proposed Rulemaking begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED RULEMAKING

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER f: ELIGIBILITY FOR BENEFITS

PART 2840

CLAIMANT'S REASON FOR SEPARATION FROM WORKSUBPART A: MISCONDUCTSection
2840.25What Is Meant By "Harm"

AUTHORITY: Implementing and authorized by Sections 602, 1700 and 1701 of the Unemployment Insurance Act (Ill. Rev. Stat. 1991, ch. 48, pars. 432, 610 and 611).

SOURCE: Adopted at 17 Ill. Reg. ____, effective ____.

SUBPART A: MISCONDUCTSection 2840.25 What Is Meant By "Harm"

The phrase "...has harmed the employing unit or other employees" in Section 602A of the Act (Ill. Rev. Stat. 1991, ch. 48, par. 432A) includes, but is not limited to:

- a) physical or quantitatively measureable damage or injury;
- b) other damage or injury to other employees' well-being or morale or to the employer's property, operations or goodwill;

1) Example: An individual is dissatisfied because he does not receive a raise. He confronts his supervisor and threatens to injure him, if not immediately, at some time soon. The threat itself, even in the absence of a physical assault resulting in a tangible injury, constitutes harm.

2) Example: Without authorization, an individual enters the company president's office, opens a desk drawer and removes and photocopies trade secrets. Even if the individual decides not to pass along this information to others, the removal and photocopying of trade secrets constitutes harm.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED RULEMAKING

- c) damage or injury that could be reasonably foreseen to occur but for the individual being prevented from either carrying out his act or continuing to work;

- 1) Example: At the end of her shift, a grocery store checker is stopped at the exit by a security guard. The security guard removes from the checker's purse a can of fruit cocktail and a package of sandwich cookies belonging to the employer. Because the checker was caught, the employer was not deprived of its property. Still, this constitutes harm.
- 2) Example: An individual applies for a job which requires that he have a valid driver's license. On his application, he fails to disclose that his driver's license had been suspended. One year later, the employer learns of the suspension. Although the individual has not yet been involved in any accidents on the employer's premises, it is reasonable to foresee that one may occur and that the employer's insurance company would deny liability because of the individual's omission. The individual's omission on his application constitutes harm.

- 3) Example: Federal law provides that a commercial carrier may not permit its vehicles to be operated by an individual if there is, within the individual's system, the presence of unlawful, controlled substances beyond a particular level. The presence of such a substance during working hours within the system of a commercial driver employed by the carrier constitutes harm to the carrier. To continue to employ the individual as a driver would result in the carrier's violating federal law.

(Source: Added at 17 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Illinois Speech-Language Pathology and Audiology Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1465
- 3) Section Numbers:

<u>Proposed Action:</u>
1465.10 Repealed
1465.30 Amendment
1465.35 New Section
1465.36 New Section
1465.80 New Section
1465.90 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111, pars. 7904, 7911 and 7912.
- 5) A Complete Description of the Subjects and Issues Involved: Section 1465.10 was repealed because the grandfather period for applying for licensure expired.

Section 1465.30 was amended to address situations of persons who obtained supervised experience in states or territories of the United States where licensure is not required. Such persons shall have that experience accepted in Illinois, provided the supervisor held certification from the American Speech-Language-Hearing Association

Sections 1465.35 and 1465.36 were added to outline supervision requirements for students and define diagnosis and therapy related to the practice of speech-language pathology and audiology.

Section 1465.80 was added to establish procedures for restoring an expired or inactive license.

In addition, various punctuation and style changes were made.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not affect local government units.

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested Persons may submit written comments and views to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800

All comments received within 30 days of this issue of the Illinois Register will be considered. The comments of interested persons who submit a request to comment within 14 days of this issue will be considered if received within 30 days of such request.

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 15, 1993.
- B) Types of small businesses affected: Those offering speech-language pathology and audiology services.

- C) Reporting, bookkeeping or other procedures required for compliance: A person seeking restoration of a license after it has expired or been placed on inactive status for more than five years shall file an application, on forms provided by the Department, together with the fee required by Section 14(A)(4) of the Act and be scheduled for an interview before the Board of Speech-Language Pathology and Audiology.

Those seeking restoration of a license that has expired or been placed on inactive status for five years or less can do so by paying the fees required by the Act.

- D) Types of professional skills necessary for compliance:
Speech-language pathology and audiology skills are required for licensure.

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1465

THE ILLINOIS SPEECH-LANGUAGE PATHOLOGY
AND AUDIOLOGY PRACTICE ACT

Section	
1465.10	Application for Licensure Under Section 7 of the Act (Repealed)
1465.20	Approved Programs
1465.30	Professional Experience
1465.35	Supervision
1465.36	Diagnosis and Therapy Related to Speech-Language Pathology and Audiology
1465.40	Application for Licensure
1465.50	Examination
1465.60	Endorsement
1465.70	Renewal
1465.80	Restoration
1465.90	Granting Variances

AUTHORITY: Implementing the Illinois Speech-Language Pathology and Audiology Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 7901 et seq.) and authorized by Section 60(7) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 60(7)).

SOURCE: Emergency rules adopted at 13 Ill. Reg. 1616, effective January 20, 1989, for a maximum of 150 days; emergency expired June 19, 1989; adopted at 13 Ill. Reg. 13882, effective August 22, 1989; amended at 17 Ill. Reg. _____ effective _____.

Section 1465.10 Application for Licensure Under Section 7 of the Act (Repealed)

~~Those persons seeking licensure under Section 7(d) of the Illinois Speech-Language Pathology and Audiology Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 7901, et seq.) (the "Act") shall file an application with the Department on forms provided by the Department of Professional Regulation (the "Department"). Such applications shall be postmarked no later than midnight, September 2, 1989, and shall include the following:~~

- a) ~~certification on forms provided by the Department or documentation of active practice in speech-language pathology or audiology, or both, prior to June 1, 1989, for 2 of the last 4 years of practice in these professions for at least 4 years; and~~

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) for licensure as a speech-language pathologist, verification of a valid Type 10 Speech and Language Impaired Certificate or its equivalent issued by the Illinois State Board of Education (a copy of the certificate may be submitted as proof) or

2) for licensure as a speech-language pathologist or as an audiologist, verification of holding current certification from the American Speech-Language-Hearing Association (ASHA) which certifies that the person is a certified speech-language pathologist or audiologist, and verification of a master's degree or its equivalent;

A) the master's degree must be conferred from a regionally accredited university or college in speech-language pathology and/or audiology;

B) for purposes of this Section an equivalent is defined as a bachelor's degree from an accredited college or university and at least 42 post baccalaureate semester hours acceptable toward a master's degree, of which at least 20 hours must be in the areas of speech-language pathology, audiology, or speech-language and hearing science. At least 21 of these 42 semester hours must be obtained from a single college or university.

b) a complete work history since completion of baccalaureate degree education; and

c) the required fee set forth in Section 14(a)(1) of the Act.

(Source: Repealed at 17 Ill. Reg. _____, effective _____)

Section 1465.30 Professional Experience

To meet the requirements of professional experience as set forth in Section (8)(f) of the Act, the applicant's experience:

a) shall be an equivalent of 2 nine months of full-time, supervised professional experience:

- 1) 30 hours or more per week over 9 months;
- 2) 25-29 hours per week over 12 months;
- 3) 20-24 hours per week over 15 months;
- 4) 15-19 hours per week over 18 months;
- 5) less than 15 hours per week will not fulfill professional experience requirements;

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

b) shall be in the include direct client contact in of at least 36 supervised activities, including but not limited to, which includes assessment/diagnosis/evaluation, screening, habilitation/ rehabilitation and activities related to client management as it pertains to the practice of speech-language pathology or audiology as defined in Section 3 of the Act;

1) At least 18 of the 36 activities shall be on-site observations by the supervisor. One hour equals one on-site observation, no more than 6 hours can be accrued in one day.

2) The other supervised activities may be accomplished through correspondence and include conferences, evaluation of written reports or evaluations by professional colleagues.

c) shall be located in part of an evaluation and therapy program located in a school, clinic, hospital, community hospital or other equivalent settings (e.g., nursing homes);

d) shall be supervised by a licensed speech-language pathologist or licensed audiologist. For persons who obtain supervised experience in states or territories of the United States where licensure is not required, the supervisor may be a person who holds certification from the American Speech-Language-Hearing Association. Each The supervisor shall be responsible for direct and personal contact, and for monitoring, improving and evaluating the performance of the individual who is under his/her supervision; and

2) The individual's performance shall be based on no less than 36 supervised activities during the professional experience, 18 of which shall be on-site observations by the supervisor. One hour equals one on-site observation; no more than 6 hours can be accrued in one day. The 18 other activities can be through correspondence and include conferences, evaluation of written reports, evaluations by professional colleagues; and

e) shall begin after completion of the course work and clinical practicum education to meet the requirements for the master's degree.

f) In lieu of meeting the requirements set forth in subsections (a) through (e) above, the Department shall accept a letter of verification from the American Speech-Language-Hearing Association that the applicant has completed the Clinical Fellowship Year required for certification as a speech-language pathologist or audiologist.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS

Section 1465.35 Supervision

- a) Pursuant to Section 12(a) of the Act, supervision of students means that the supervisor is on-site (but not necessarily in the same room as the student) whenever the student is performing practices normally done by a licensed speech-language pathologist or audiologist. Supervision of students requires that direct supervision must be done no less than 25% of the time for treatment and 50% of the time for diagnostics. The supervisor is directly responsible to the client for all actions of that student. For purposes of this Part, direct supervision means present in the room.
- b) Supervision requirements will vary depending on the qualifications of an appropriately trained person pursuant to Section 12(b) of the Act.
 - 1) If a person has completed the academic and practicum work for a master's degree in speech-language pathology or audiology (regardless of whether the individual is in the process of completing 9 months of supervised professional experience or whether the individual has finished that experience and is waiting for his/her application for licensure to be processed), the supervision shall meet the requirements set forth in Section 1465.30(d).
 - 2) If a person has completed a training course other than that culminating in a master's degree and if that individual is not exempt pursuant to Section 12(a), (c), (d) or (e):
 - A) Diagnostic services as defined in Section 1465.36 shall not be performed.
 - B) Therapeutic services, as defined in Section 1465.36, must be supervised as follows:
 - i) The treatment plan shall be developed by the supervisor;
 - ii) The first 5 to 10 sessions, which constitute a minimum of 10 hours of treatment for each client, must be directly supervised by the licensed speech-language pathologist or audiologist;
 - iii) Subsequent to the first 10 hours, at least 1 of every 4 sessions will be under direct supervision by the licensed speech-language pathologist or audiologist; and

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS

- iv) Documentation will be generated by the supervisor to verify the work of the supervisee. A report will be kept by the supervisor and the supervisee.

(Source: Added at 17 Ill. Reg. _____, effective _____)

Section 1465.36 Diagnosis and Therapy Related to Speech-Language Pathology and Audiology

For purposes of this Part, diagnosis and therapy related to the practice of speech-language pathology and audiology shall be defined as follows:

- a) Speech-Language Pathology
 - 1) Diagnosis under speech-language pathology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of communication development, disorders or disabilities of speech, language, voice, swallowing and other speech, language and voice related disorders.
 - 2) Therapy under speech-language pathology means habilitation, rehabilitation, counseling, consulting, directing or conducting programs that are designed to modify disorders related to communication development, and disorders or disabilities of speech, language, voice or swallowing. This may also include training in the use of augmentative communication systems, communication variation, cognitive rehabilitation, nonspeech language production and comprehension.
- b) Audiology
 - 1) Diagnosis under audiology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of hearing or vestibular function.
 - 2) Therapy under audiology means habilitation, rehabilitation, counseling, consulting, directing or conducting of programs that are designed to modify disorders related to hearing loss or vestibular malfunction. This includes training in the use of amplification, including hearing aids. This also includes removal of cerumen for the purpose of performing diagnostic or therapeutic procedures.

(Source: Added at 17 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1465.80 Restoration

- a) A person seeking restoration of a license which has expired for five (5) years or less shall have the license restored upon payment of the fees pursuant to Section 14(A)(4)(i) of the Act.
- b) A person seeking restoration of a license which has been placed on inactive status for five (5) years or less shall have the license restored upon payment of the fee pursuant to Section 14(A)(4)(ii) of the Act.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than five (5) years shall file an application, on forms supplied by the Department, together with the fee required by Section 14(A)(4) of the Act and be scheduled for an interview before the Board. The person shall also submit either:
 - 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 11(f) of the Act; or
 - 3) Proof of successful completion of the NESPA examination in accordance with Section 1465.50 of this Part within one year of application for restoration.

- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Added at 17 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1465.90 Granting Variances

- a) The Director of the Department may grant variances from these rules in individual cases where he/she finds that:
 - 1) the provision from which the variance is granted is not statutorily mandated;
 - 2) no party will be injured by the granting of the variance; and
 - 3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of Speech-Language Pathology and Audiology of the granting of such variance, and the reasons therefor, at the next meeting of the Board.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Developmental Disabilities Service

2) Code Citation: 89 Ill. Adm. Code 144

3) Section Number Proposed Action:

144.230 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 12-13)

5) Complete Description of the Subjects and Issues Involved: These proposed amendments pertain to the management of resident funds in ICF/MR facilities. The amendments coincide with policies of the Illinois Department of Public Health, and primarily establish a \$100.00 threshold regarding the amount which a facility must place into an interest bearing account for any resident. The amendments also address a resident's right to manage his or her own funds, facility authorization to manage funds, record keeping responsibilities of facilities, and various aspects of fund maintenance.

These proposed amendments will not result in additional expenditures by the Department.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Joanne Jones, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762. The Department will consider all written comments it receives within 30 days after the publication of this notice.

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

A) Date proposed rulemaking was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 13, 1993

B) Types of small businesses affected: ICF/MR Facilities

C) Reporting, bookkeeping or other procedures required for compliance: None

D) Types of professional skills necessary for compliance: None

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 144

DEVELOPMENTAL DISABILITIES SERVICE

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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989 1991, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Adopted at 14 Ill. Reg. 4166, effective March 9, 1990; Section 144.275 recodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14 Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084, effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148, effective October 22, 1991, for a maximum of 150 days; amended at 16

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Ill. Reg. 3497, effective February 28, 1992; amended at 16 Ill. Reg. 5898, effective March 20, 1992; amended at 17 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 144.230 Resident Funds

Residents of ICFs/MR shall be allowed to manage their own financial affairs and shall be taught to do so to the extent of their capabilities. If a resident is determined incapable of managing his or her own finances the facility may be authorized to do so.

a) Authorization

1) An ICF/MR shall manage a resident's personal funds only upon written authorization from _____ in order of priority:

- A) the resident;
B) the resident's guardian or if the resident is a minor, the resident's parent;
C) the resident's representative;
D) the resident's immediate family member.

2) Such authorization shall be validated by a witness who has no pecuniary interest in the facility or its operations and who is not connected in any way to facility personnel or the administrator in any manner.

b) Record Keeping. If the facility is authorized to manage a resident's funds, it shall:

- 1) Establish a separate, written record of each resident's account indicating all financial arrangements and transactions involving the resident's funds and provide a copy of such record to the resident or authorized representative upon request;
2) Provide a written itemized statement of all transactions involving the resident's funds at least quarterly to each resident or authorized representative included in the account;
3) Retain all records of personal allowance funds for three years for residents currently residing in the facility and for residents who have died or been discharged from the facility;

Section 144.230(b) (continued)

- 4) Notify the local Public Aid office of any lump sum payment received by the resident or any change in the resident's circumstances, within five working days.
- 5) Notify each resident who receives Medicaid benefits, or authorized representative, when the amount in the resident's account reaches \$200.00 less than the SSI resource limit for one person. The facility must notify the resident, or authorized representative, that the amount in the account, in addition to the value of the resident's other nonexempt resources, exceeds the one person SSI resource limit of \$2,000.00.

c) Maintenance of Funds

- 1) A facility duly authorized to manage a resident's funds must keep such funds in an account or accounts which are separate from any facility funds or the funds of any person other than another resident. In addition, the facility:
- A) Shall establish and maintain a system that assures a full, complete and separate accounting of each resident's account balance. For resident funds that are commingled with the funds of other residents, all interest accrued on the resident's funds shall be pro-rated and properly credited to each resident's account balance. The system shall contain documents identifying all transactions made by the facility on behalf of the resident. All deposits and withdrawals are to be shown by date and amount. Identifiable receipts for all purchases must be retained.
- B) Is not to expend or allow use of resident funds for any person other than the resident. The facility will explain to the resident or authorized representative that personal funds should not be spent for the purchase of, or as a contribution toward the purchase of items/equipment that the facility is required to provide for the resident.
- C) Shall deposit any funds received from a resident in excess of \$100.00 in an interest bearing account insured by agencies of, or corporations chartered by the State or Federal government. The account shall be in a form which clearly indicates that the facility has only a fiduciary interest in the funds and any interest from the account shall accrue to the resident.

Section 144.230(c)(1) (continued)

- D) May keep up to \$100.00 of a resident's funds in a non-interest bearing account or a petty cash fund to be readily accessible for the resident's current expenditures.
- E) Shall return to the resident, or the person who executed the agreement referenced in subsection (a)(1) of this Section, upon written request, all or any part of the resident's funds given the facility for safekeeping including the interest accrued from deposits.
- F) Shall purchase a surety bond to guarantee the security of residents' funds.
- G) Shall take all steps necessary to ensure that a personal needs allowance that is placed in a resident's personal account is used exclusively by the resident or for the benefit of the resident. When funds withdrawn from a resident's personal account by any person other than the resident includes a portion of the resident's personal needs allowance, the facility shall require the person initiating the withdrawal to sign an affidavit attesting that the funds withdrawn are to be used exclusively for the benefit of the resident.
- 2) If the facility is sold, the seller shall provide the buyer with a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.
- d) Reconciliation of Resident Funds
- 1) Upon the death of a resident who has monies which are managed by the facility, the facility is to:
- A) promptly convey the resident's funds and a final accounting of those funds to the individual administering the deceased's estate; and,
- B) notify the local Public Aid office of the amount of all monies which belonged to the deceased.
- 2) Upon discharge of a resident who has monies which are managed by the facility, the facility is to:

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Section 144.230(d)(2) (continued)

- A) promptly refund any monies and a final accounting of those monies (including all interest earned, belonging to the resident) to the resident or authorized representative; and,
- B) notify the local Public Aid office of the amount of all monies, including all interest earned, which belong to the resident.

(Source: added at 17 Ill. Reg. _____, effective _____)

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1) Heading of the Part:

Grade A Pasteurized Milk and Milk Products

2) Code Citation: 77 Ill. Adm. Code 7753) Section Numbers: Proposed Action:

775.10	Amendment
775.20	Amendment
775.70	Amendment
775.110	Amendment
775.140	Amendment
775.150	New Section

4) Statutory Authority: Implemented and authorized by the Grade A Pasteurized Milk and Milk Products Act (Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 2201 et seq.)5) A Complete Description of the Subjects and Issues Involved:

To assist State and municipalities in initiating and maintaining effective programs for the prevention of milkborne disease, the U.S. Public Health Service/Food and Drug Administration (FDA), in conjunction with the National Conference of Interstate Milk Shippers (NCIMS), adopted a model milk regulation. This model milk regulation is now titled the Grade A Pasteurized Milk Ordinance (PMO). All 50 states, the District of Columbia and U.S. Trust Territories participate in the NCIMS. States administering the PMO in compliance with FDA criteria can list milk processors in the Interstate Milk Shippers List (IMSL). Those processors listed can engage in interstate shipment of specified dairy products.

In 1991, state delegates to the NCIMS recommended changes and additions to the PMO. The FDA and the Executive Board of the NCIMS mutually concurred in these changes and incorporated them into the PMO. In order to comply with the PMO, Illinois must amend existing rules.

Currently the Grade A Pasteurized Milk and Milk Products Act (Ill. Rev. Stat., 1991, ch. 56 1/2, pars. 2201 et seq.) requires dairy plant operators to test raw milk for antibiotics. The new rules will specify testing for drugs rather than antibiotics. The original intent of the requirement was to test milk for substances that are used to control animal diseases but that may not necessarily be classified as antibiotics, i.e., sulfa drugs. Currently, the Veterinary Medicine & Surgery Practice Act of 1983 specifies required information on drug and prescription labels. This amendment incorporates those requirements.

Under current rules, a dairy plant has the option of testing each bulk milk pickup tanker load of milk for antibiotics or in the alternative, for testing each producer's milk for antibiotics at least

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once a month. Under the proposed rules, a dairy plant must perform a drug residue screening test on every bulk milk pickup tanker load of raw milk received at the dairy plant. Testing each producer's milk once a month will no longer be an alternative. Under the proposed rule, whenever a bulk milk pickup tanker load tests positive for drug residue, the dairy plant must verify the contamination by testing each individual producer's sample to identify the producer or producers who contaminated the bulk milk pickup tanker.

Under the proposed rule, the producer or producers who contaminated the bulk milk pickup tanker, permit(s) to sell milk will be summarily suspended for 48 hours. After which time, milk subsequently produced will be tested to determine if the adulteration is continual. When the subsequent sample(s) show no violative drug residues, the producer's permit to sell milk will be conditionally reinstated. The producer must complete a recognized quality assurance program under the supervision of a licensed veterinarian within 30 days. Upon completion of the quality assurance program, the permit will be fully reinstated.

Under the proposed rule, if a producer has a second violative drug residue in a 12 month period, his permit to sell milk will be summarily suspended for 96 hours. The same procedures for testing and reinstatement will be followed as were followed after the first violative drug residue suspension.

Under the proposed rules, if a producer has a third violative drug residue in a 12 month period, actions taken will be the same as for the second violation except that administrative procedures will be initiated to permanently revoke the producer's permit to sell milk.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?

No.

7) Does this Rulemaking Contain an Automatic Repeal Date?

No.

8) Does this Rulemaking Contain Any Incorporations By Reference?

Yes.

9) Are there any other Proposed Amendments Pending on this Part?

No.

10) Statement of Statewide Policy Objectives:

This proposed rulemaking neither creates nor expands a State mandate.

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11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Ms. Gail DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail DeVito at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rulemaking was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:

dairy farms, dairy processing plants

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

Violative drug residues are reported to the Department and records are maintained for 2 years.

D) Types of Professional Skills Necessary for Compliance:

The full text of the Proposed Rulemaking begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 775
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section

- 775.1 Minimum Regulations (Renumbered)
- 775.10 Definitions
- 775.20 Incorporated Materials
- 775.30 Minimum Requirements
- 775.40 Local Government Implementation
- 775.50 Permits
- 775.60 Suspension of Permits
- 775.70 Inspections and Investigations
- 775.80 Approval of Construction Plans
- 775.90 Administrative Hearings
- 775.100 Milk Haulers Examination
- 775.110 Milk Tank Trucks
- 775.120 Cleaning and Sanitizing Procedures
- 775.130 Action Levels for Added Water in Milk
- 775.140 Pesticide, Herbicide and Mycotoxin Residue Control Program
- 775.150 Drug Residue Control Program

AUTHORITY: Implementing and authorized by the Grade A Pasteurized Milk and Milk Products Act (Ill. Rev. Stat. 1991 4987, ch. 56 1/2, pars. 2201 et seq.)

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 17 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 775.10 Definitions

In addition to the definitions contained in Part II, Section 1 of the Grade A Pasteurized Milk Ordinance and Grade A Condensed and Dry Milk Products and Dry Whey Supplement, the following definitions shall apply:

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"ACT" means the ~~MEANS THE~~ "GRADE A PASTEURIZED MILK AND MILK PRODUCTS ACT." (Ill. Rev. Stat. 4987 1991, ch. 56 1/2, par. 2201 et seq.).

"Bulk milk pickup tanker" means a vehicle including the truck, tank and those appurtenances necessary for its use, used by a milk hauler to transport bulk raw milk for pasteurization from a dairy farm to a transfer station, receiving station or milk plant.

"Clarification" means an operational procedure that removes sediment from milk.

"CLEANING AND SANITIZING FACILITY" MEANS ANY PLACE, PREMISE OR ESTABLISHMENT WHERE MILK TANK TRUCKS ARE CLEANED AND SANITIZED. (Section 3(b)(15) of the Act).

"Cultured dairy products", means milk and milk products that have been soured after pasteurization using harmless lactic-acid producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe and suitable milk-clotting enzymes.

"DAIRY FARM" MEANS ANY PLACE OR PREMISE WHERE ONE OR MORE COWS OR GOATS ARE KEPT, AND FROM WHICH A PART OR ALL OF THE MILK OR MILK PRODUCTS ARE PROVIDED, SOLD OR OFFERED FOR SALE TO A MILK PLANT, TRANSFER STATION, OR RECEIVING STATION. (Section 3(b)(1) of the Act)

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH. (Section 3(b)(7) of the Act)

"DIRECTOR" MEANS THE DIRECTOR OF THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH. (Section 3(b)(8) of the Act)

"Down stream" means after the automatic milk flow safety device.

"EMBARGO OR HOLD FOR INVESTIGATION" MEANS A DETENTION OR SEIZURE DESIGNED TO DENY THE USE OF MILK OR MILK PRODUCTS WHICH MAY BE UNWHOLESOME OR TO PROHIBIT THE USE OF EQUIPMENT WHICH MAY RESULT IN CONTAMINATED OR UNWHOLESOME MILK OR DAIRY PRODUCTS. (Section 3(b)(9) of the Act)

"ENFORCING AGENCY" MEANS THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH OR A UNIT OF LOCAL GOVERNMENT ELECTING TO ADMINISTER AND ENFORCE THIS ACT AS PROVIDED FOR IN ~~THIS SECTION 3 OF THE~~ ACT. (Section 3(b)(12) of the Act)

"Field Representative" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this Part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

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"GRADE A" MEANS THAT MILK AND MILK PRODUCTS ARE PRODUCED AND PROCESSED IN ACCORDANCE WITH THE LATEST UNITED STATES PUBLIC HEALTH SERVICE FOOD AND DRUG ADMINISTRATION GRADE A PASTEURIZED MILK ORDINANCE AS MAY BE AMENDED. THE TERM GRADE A IS APPLICABLE TO "DAIRY FARM", "MILK HAULER", "MILK PLANT", "MILK PRODUCT", "RECEIVING STATION" AND "TRANSFER STATION" WHENEVER USED IN THIS ACT. (Section 3(a) of the Act)

"High temperature short time flow-diversion device" or "H.T.S.T." means an automatic milk-flow safety device that controls the flow of milk in relation to the temperature of the milk or heating medium and/or pressure, vacuum, or other auxiliary equipment.

"IMMINENT HAZARD TO THE PUBLIC HEALTH" MEANS ANY HAZARD TO THE PUBLIC HEALTH WHEN THE EVIDENCE IS SUFFICIENT TO SHOW THAT A PRODUCT OR PRACTICE, POSING OR CONTRIBUTING TO A SIGNIFICANT THREAT OF DANGER TO HEALTH, CREATES OR MAY CREATE A PUBLIC HEALTH SITUATION (1) THAT SHOULD BE CORRECTED IMMEDIATELY TO PREVENT INJURY AND (2) THAT SHOULD NOT BE PERMITTED TO CONTINUE WHILE A HEARING OR OTHER FORMAL PROCEEDING IS BEING HELD. (Section 3(b)(10) of the Act)

"MILK" MEANS THE MILK OF COWS OR GOATS AND INCLUDES SKIM MILK AND CREAM. (Section 3(b)(2) of the Act)

"Milkfat and Nonfat Solid Content Standards" means the standards set forth in 21 CFR 131.110. (4987 1990) (See Section 775.20).

"MILK HAULER" MEANS A PERSON WHO TRANSPORTS BULK RAW MILK FOR PASTEURIZATION FROM A DAIRY FARM TO A RECEIVING STATION, TRANSFER STATION, OR MILK PLANT. (Section 3(b)(14) of the Act)

"Milk pickup tanker" means a milk pickup tanker is a vehicle including the truck, tank and those appurtenances necessary for its use, used by a milk hauler to transport bulk raw milk for pasteurization from a dairy farm to a transfer station, receiving station or milk plant.

"MILK PRODUCT" MEANS ANY PRODUCT INCLUDING CREAM, LIGHT CREAM, LIGHT WHIPPING CREAM, HEAVY CREAM, HEAVY WHIPPING CREAM, WHIPPED CREAM, WHIPPED LIGHT CREAM, SOUR CREAM, ACIDIFIED LIGHT CREAM, CULTURED SOUR CREAM, ~~sour cream, acidified sour cream, cultured sour cream,~~ HALF-AND-HALF, SOUR HALF-AND-HALF, ACIDIFIED SOUR HALF-AND-HALF, CULTURED HALF-AND-HALF, RECONSTITUTED OR RECOMBINED MILK AND MILK PRODUCTS, CONCENTRATED MILK, CONCENTRATED MILK PRODUCTS, SKIM MILK, LOWFAT MILK, FROZEN MILK CONCENTRATE, EGGNOG, BUTTERMILK, CULTURED MILK, CULTURED LOWFAT MILK, OR SKIM MILK,

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COTTAGE CHEESE (including dry curd and lowfat), ~~(including dry curd and lowfat),~~ ~~LOWFAT~~ YOGURT, LOWFAT YOGURT, NONFAT YOGURT, ACIDIFIED MILK, ACIDIFIED LOWFAT MILK, OR SKIM MILK, LOW-SODIUM MILK, LOW-SODIUM LOWFAT MILK, LOW-SODIUM SKIM MILK, LACTOSE-REDUCED MILK, LACTOSE-REDUCED LOWFAT MILK, LACTOSE-REDUCED SKIM MILK, ASEPTICALLY PROCESSED AND PACKAGED MILK AND MILK PRODUCTS, AND MILK, LOWFAT MILK OR SKIM MILK WITH ADDED SAFE AND SUITABLE MICROBIAL ORGANISMS. (Section 3(b)(4) of the Act)

"Milk transport tank" means ~~a milk transport tank~~ is a vehicle including the truck and tank used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"Milk tank truck" means ~~a milk tank truck~~ is the term used to describe both a bulk or milk pickup tanker and a milk transport tank.

"PMO" means Grade A Pasteurized Milk Ordinance incorporated by reference. (See Section 775.20.)

"PERMIT" MEANS A DOCUMENT AWARDED TO A PERSON FOR COMPLIANCE WITH THE PROVISIONS OF AND UNDER CONDITIONS SET FORTH IN THE ACT and this Part. (Section 3(b)(13) of the Act)

"PERSON" MEANS ANY INDIVIDUAL, GROUP OF INDIVIDUALS, ASSOCIATION, TRUST, PARTNERSHIP, CORPORATION, PERSON DOING BUSINESS UNDER AN ASSUMED NAME, THE STATE OF ILLINOIS, OR ANY POLITICAL SUBDIVISION OR DEPARTMENT THEREOF, OR ANY OTHER ENTITY. (Section 3(b)(11) of the Act)

"Quality assurance program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

"RECEIVING STATION" MEANS ANY PLACE, PREMISE, OR ESTABLISHMENT WHERE RAW MILK IS RECEIVED, COLLECTED, HANDLED, STORED OR COOLED AND PREPARED FOR FURTHER TRANSPORTING. (Section 3(b)(5) of the Act)

"Separation" means an operational procedure that removes butterfat from milk.

"TRANSFER STATIONS" MEANS ANY PLACE, PREMISE, OR ESTABLISHMENT WHERE MILK OR MILK PRODUCTS ARE TRANSFERRED DIRECTLY FROM ONE MILK TANK TO ANOTHER. (Section 3(b)(6) of the Act)

"Violative Drug Residue" means a drug residue at or above the tolerance and/or safe levels as set forth in 21 C.F.R. 556 (1991) and Appendix N of the PMO.

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(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 775.20 Incorporated Materials

a) The following materials are incorporated or referenced in this Part:

- 1) The Grade A Pasteurized Milk Ordinance (PMO), Part II and Appendices A through M - as amended in 1991 1987 (except Sections 16 and 17) (PMO) (1985 Revision of the 1978 1989 Recommendations of the United States Public Health Service/Food and Drug Administration (Publication 229)). In addition, the jurisdiction name, left blank in Sections 1, 2 and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1, shall mean the Illinois Department of Public Health. (See Section 775.30(a)).
- 2) The Grade A Condensed and Dry Milk Products and Condensed and Dry Whey Supplement I to the Grade A Pasteurized Milk Ordinance, Part II and Appendices A through J (1978 Recommended Sanitation Ordinance for Condensed and Dry Milk Products and Condensed and Dry Milk Whey Used in Grade A Pasteurized Milk Products). (See Section 775.30(b)).
- 3) The Standard Methods for the Examination of Dairy Products (15th Edition, 198578, American Public Health Association, 1015 - 18th Street, N.W., Washington, D.C. 20036.) (See Section 775.70(b)).
- 4) Official Methods of Analysis of the Association of Official Analytical Chemists (15th 14th Edition, 1990 1989, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station, Washington, D.C. 20044.) See Section 775.70(b).
- 5) 21 CFR 131.110. (1991 1986) (See Section 775.10 the definition of "Milkfat and Nonfat Solid Content Standards. ").
- 6) Illinois Plumbing Code - 77 Ill. Adm. Code 890, Illinois Department of Public Health. (See Section 775.30(c)(4)).
- 7) Minimum Qualifications for Public Health Personnel Employed by Full-time Local Health Departments - 77 Ill. Adm. Code 600.700 to 600.740, Illinois Department of Public Health. (See Section 775.40).
- 8) Rules of Practice and Procedure in Administrative Hearings - 77 Ill. Adm. Code 100, Illinois Department of Public Health. (See Section 775.90).
- 9) 21 CFR 556 (1991) (See Section 775.10 the definition of "Violative Drug

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Residue").

- 10) The Veterinary Medicine and Surgery Practice Act of 1983
Ill. Rev. Stat. 1991, ch. 111, pars. 7002 et seq.

- b) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) All citations to federal regulations in this Part concern the specified regulation in the 1991 1987 Code of Federal Regulations, unless another date is specified.
- d) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 4525 West Jefferson Street, Springfield, Illinois 62761).

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 775.70 Inspections and Investigations

- a) The Department shall inspect and investigate complaints concerning ~~THE DEPARTMENT SHALL INSPECT AND INVESTIGATE COMPLAINTS CONCERNING DAIRY FARMS, MILK PLANTS, CLEANING AND SANITIZING FACILITIES, RECEIVING STATIONS, TRANSFER STATIONS, MILK HAULERS, MILK HAULERS, AND OR VEHICLES USED TO TRANSPORT MILK AND MILK PRODUCTS UNDER ITS JURISDICTION, FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE ACT AND THIS PART.~~ (Section 10 of this Act.) ~~DETERMINING COMPLIANCE WITH THE ACT AND THIS PART.~~ (Ill. Rev. Stat. 1985, ch. 56-1/2, par. 22140)
- b) When conducting inspections pursuant to Section 5 of the PMO, the Department will utilize the sStandard mMethods for the eExamination of dDairy pProducts and oOfficial mMethods of aAnalysis of the aAssociation of oOfficial aAnalytical eChemists. (See Section 775.20)
- c) ~~THE DEPARTMENT WILL GIVE WRITTEN NOTICE OF ALL VIOLATIONS SHALL BE GIVEN TO THE DAIRY FARM, MILK PLANT, CLEANING AND SANITIZING FACILITY, RECEIVING OR TRANSFER STATION OR HAULER after any inspection or investigation AFTER ANY INSPECTION OR INVESTIGATION.~~ (Section 10 of this Act.) (Ill. Rev. Stat. 1985 1991, ch. 56-1/2, par. 22140)

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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Section 775.110 Milk Tank Trucks

- a) A milk tank truck may only be used to transport the following products which are intended for and suitable for human consumption: A MILK TANK TRUCK MAY ONLY BE USED TO TRANSPORT THE FOLLOWING PRODUCTS WHICH ARE INTENDED FOR AND SUITABLE FOR HUMAN CONSUMPTION:

- 1) Milk MILK
- 2) Raw milk RAW MILK
- 3) Milk products MILK PRODUCTS
- 4) Whey and Whey Products
- 5) Potable Water
- 6) Liquid sweeteners
- 7) Fruit Juices and Drinks
- 8) Liquified Chocolate and Cocoa Products
- 9) Liquid Pasteurized Eggs and Egg Products
- 10) Vinegar
- 11) Food Colorings
- 12) Vegetable Oils

(Ill. Rev. Stat., ch. 56-1/2, par. 2214.1(a))

- b) A milk tank truck must be A MILK TANK TRUCK MUST BE CLEANED AND SANITIZED PRIOR TO THE INTRODUCTION OF THE MILK or milk products according to part II, section 7, items OR MILK PRODUCTS ACCORDING TO PART II, SECTION 7, ITEMS 1p, 2p (climatic and operating conditions), 3p (climatic and operating conditions) 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, 22p and Appendix f of the PMO. (Section 14.1(b) of the Act.) (Ill. Rev. Stat., ch. 56-1/2, par. 2214.1 (b))

- c) EACH milk MILK TANK TRUCK USED TO HAUL MILK must have a log maintained by MUST HAVE A LOG MAINTAINED BY the owner of the truck. This log must consist of the following: THIS LOG MUST CONSIST OF THE FOLLOWING:

- 1) THE DATE OR DATES OF EACH TRIP TAKEN BY THE milk MILK TANK TRUCK;
- 2) THE NAME OF THE SUBSTANCE HAULED BY THE milk MILK TANK TRUCK;
- 3) THE DATE THE milk TANK TRUCK WAS CLEANED AND SANITIZED; THE LOCATION WHERE THE SUBSTANCE WAS LOADED AND UNLOADED;

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- 4) THE LOCATION WHERE THE milk TRUCK WAS CLEANED AND SANITIZED; THE DATE THE MILK TANK TRUCK WAS CLEANED AND SANITIZED;

- 5) SUCH OTHER INFORMATION DEEMED NECESSARY BY THE DEPARTMENT TO ENFORCE THIS ACT. THE LOCATION WHERE THE MILK TANK TRUCK WAS CLEANED AND SANITIZED.

THE LOG FOR A TANK TRUCK SHALL BE AVAILABLE UPON REQUEST.
(Section 14.1(e) of this Act.)

(Ill. Rev. Stat., ch. 56-1/2, par. 2214 (d))

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 775.140 Pesticide, Herbicide and Mycotoxin Residue Control Program

- a) The following describes the Department's Pesticide, Herbicide and Mycotoxin residue control program for Grade A raw milk under Section 6 of the PMO.

- 1) If the analysis of a sample from a bulk tank truck shows a level of any of the pesticides, herbicide or mycotoxin above the action levels contained in Section 775.140(b), then an individual sample is collected from each producer's milk that was in the tank truck to determine which producer or producers have created or contributed to the problem.

- 2) When the individual resampling is complete and the test indicates high pesticide, herbicide or mycotoxin residue levels equal to or above action level another sample will be taken within 15 days to determine whether this adulteration is continual or has been a one time situation.

- 3) If the second sample under Section 775.140(a)(2) shows an action level equal to or greater than those contained in 775.140(b), then all of the producer's milk will be removed from the market and not offered for sale for human consumption until an official sample test shows the residue falls below the action level.

- 4) The milk supply will then be provisionally reinstated for human use and samples will be taken on a monthly basis. Should the next sample be above

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action level, the milk will again be removed from the market and not offered for sale for human consumption.

- 5) When two consecutive monthly samples are below the action level, the producer's supply shall be fully reinstated.
- b) The following Action levels ~~stated in parts per million~~ have been established for the Pesticide, Herbicide or Mycotoxin Residue Control Program (PPM=~~parts per million~~; PPB=~~parts per billion~~):

1) Aldrin - 0.3 PPM

2) Dieldrin - 0.3 PPM

3) Endrin - 0.3 PPM

4) Lindane - 0.3 PPM

5) Heptachlor or

Heptachlor Epoxide

6) PCB - 1.5 PPM

7) Aflatoxin - 0.5 ~~PPM~~ PPB

8) D.D.T. - 1.25 PPM

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 775.150 Drug Residue Control Program

- a) Equipment used to administer medicinals/drugs shall not be cleaned in the wash vats and shall be stored so as not to contaminate the milk or milk contact surfaces of equipment.
- b) Drugs and medicines shall be stored in such a manner that they cannot contaminate the milk or milk product contact surface of the equipment, containers or utensils. Such products shall be properly labeled to include:

- 1) The name and address of the manufacturer or distributor (for O.T.C. medicines/drugs), or veterinary practitioner dispensing the product (for Rx and Extra-Label use medicines/drugs), and.

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- 2) Directions for use, and prescribed holding times, and,
- 3) Cautionary statements, if needed, and,
- 4) Active ingredient(s) in the drug product.
- c) Unapproved and/or improperly labeled medicinals/drugs shall not be used to treat dairy animals and shall not be stored in the milkhause, milking barn, stable or parlor. Medicinals/drugs intended for treatment of non-lactating dairy animals shall be segregated from those medicinals/drugs used for lactating animals. (Separate shelves in cabinets, refrigerators, or other storage facilities satisfy this item.)
- d) Topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage form vitamins and/or mineral products are exempt from labeling and storage requirements except when it is determined that they are stored in such a manner that they may contaminate the milk or milk product surfaces of containers or utensils.
- e) The following describes the Department's Drug residue control program for Grade A raw milk under Section 6. of the PMO.
- 1) If the analysis of a sample from a bulk milk pickup tanker or milk received directly from the farm bulk tank shows any drug residue at or above the tolerances and/or safe levels of drug residues as established by Appendix N of the PMO, then the individual sample collected from each producer's milk that was in the bulk milk pickup tanker is tested to determine which producer or producers have created or contributed to the drug residue.
- 2) When the individual sample testing is complete and the tests indicate a violative drug residue, the producer's or producers' Grade A permit will be summarily suspended. Another sample will be taken from milk produced after a 48 hour withholding period to determine whether this adulteration is continual. On the second and third occurrence of the violative drug residue in a 12 month period, the producer's Grade A permit will be summarily suspended. Another sample will be taken from milk produced after a 96 hour withholding period to determine whether this adulteration is continual. For the third occurrence of a drug residue in any 12 month period the Department shall initiate administrative procedures pursuant to revocation of the producer's permit.
- 3) If the resample taken after 48 or 96 hours, as applicable, shows no violative drug residue, the suspended Grade A permit will be conditionally reinstated for up to 30 days. The producer and a licensed veterinarian must complete a quality assurance (QA) program, within the 30 day conditional reinstatement of the Grade A permit,

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- 4) When the field representative has signed and transmitted to the Department a copy of the quality assurance program completion certificate signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.

(Source: Added at 17 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part:

Manufactured Dairy Products

- 2) Code Citation: 77 Ill. Adm. Code 785

- 3) Section Numbers:

785.110
785.120
785.200
785.290
785.300
785.355
785.578
785.1210
785.1220

Proposed Action:

Amendment
Amendment
Amendment
Amendment
New Section
New Section
New Section

- 4) Statutory Authority: Implemented and authorized by the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1991, ch. 56 1/2, pars 501 et seq.)

- 5) A Complete Description of the Subjects and Issues Involved:

The production, handling, transportation and processing of manufactured grade milk is regulated by the U.S. Department of Agriculture (USDA), Food and Drug Administration (FDA) and amended by various state regulatory authorities. FDA has issued new rules that significantly advance its interpretation of drug and pesticide adulteration of milk. This document consolidates existing federal regulations and rules in an effort to simplify compliance by dairy producers, processors and the milk transport industry. These changes will permit the Illinois dairy industry to engage in the interstate shipment of specified dairy products.

The proposed rules provide additional definitions and clarify specific terms. Current rules call for the testing of milk for antibiotics. The new rules specify testing for drugs rather than antibiotics. The original intent of the requirement was to test milk for substances that are used to control animal diseases but that may not necessarily be classified as antibiotics, i.e., sulfa drugs. Under the current rules, testing for antibiotics is required at least 4 times in 6 months. Under the new rules, this requirement will be changed from antibiotics to drugs. In addition, under the proposed rules, a dairy plant must perform a drug residue screening test on every bulk milk pickup tanker load of raw milk received. Whenever a bulk milk pickup tanker load tests positive for drug residue, the dairy plant must verify the contamination by testing each individual producer's samples to identify the producer or producers who contaminated the bulk milk pickup tanker.

Under the proposed rule, the producer or producer's who contaminated the bulk milk pickup

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Ms. Gail DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail DeVito at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rulemaking was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:
dairy farms and dairy processing plants

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

Violative drug residues are reported to the Department and records are retained for 2 years.

D) Types of Professional Skills Necessary for Compliance:

The full text of the Proposed Rulemaking begins on the next page:

Under the proposed rule, if a producer has a second violative drug residue in a 12 month period, his permit to sell milk will be summarily suspended for 48 hours. After which time, milk subsequently produced will be tested to determine if the adulteration is continual. When the subsequent sample(s) show no violative drug residues, the producer's permit to sell milk will be conditionally reinstated. The producer must complete a recognized quality assurance program under the supervision of a licensed veterinarian within 30 days. Upon completion of the quality assurance program, the permit will be fully reinstated.

Under the proposed rule, if a producer has a second violative drug residue in a 12 month period, his permit to sell milk will be summarily suspended for 96 hours. The same procedures for testing and reinstatement will be followed as were followed after the first violative drug residue suspension.

Under the proposed rules, if a producer has a third violative drug residue in a 12 month period, actions taken will be the same as for the second violation except that administrative procedures will be initiated to permanently revoke the producer's permit to sell milk.

Under the current rules, milk is tested for added water monthly. If more than 3% water is added, the producer is notified and retested. The presence of added water in raw milk or pasteurized milk constitutes adulteration. The proposed rules specify the testing criteria and actions to be taken by the Department as the result of added water.

The current rules inadvertently omitted Section 785.578, Packaging, Repackaging & Storage. The proposed rules include the omitted portions.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?

No.

7) Does this Rulemaking Contain an Automatic Repeal Date?

No.

8) Does this Rulemaking Contain Any Incorporations By Reference?

Yes.

9) Are there any other Proposed Amendments Pending on this Part?

No.

10) Statement of Statewide Policy Objectives:

This proposed rulemaking neither creates nor expands a State mandate.

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 785
MANUFACTURED DAIRY PRODUCTS

SUBPART A: DEFINITIONS

Section
785.100
785.110
785.120

Meaning of Words
Definitions
Incorporated Materials

SUBPART B: ILLINOIS QUALITY REQUIREMENTS FOR MILK FOR
MANUFACTURING PURPOSES

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Basis
Appearance and Odor
Sediment Content Classification
Bacterial Estimate Classification
Rejected Milk
Excluded Milk
Quality Testing of Milk from New Producers
Record of Tests
Field Service
Abnormal Milk

SUBPART C: REQUIREMENTS FOR FARMS PRODUCING MILK FOR MANUFACTURING

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Health of Herd
Milking Facility and Housing
Milking Procedure
Cooling
Milkhouse or Milkroom
Utensils and Equipment
Protection from Contamination
Water Supply
Sewage Disposal
Qualifications for Farm Licensing

SUBPART D: REQUIREMENTS FOR LICENSED DAIRY PLANTS

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General Requirements
Buildings
Facilities
Equipment and Utensils
Personnel Cleanliness
Personnel Health
Protection and Transportation of Raw Milk and Cream
Raw Product Storage
Pasteurization or Sterilization
Composition and Wholesomeness
Cleaning and Sanitizing Treatment
Insect and Rodent Control Program
Plant Records
Packaging and General Identification
Storage of Finished Product
Qualification for Plant Licensing

SUBPART E: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING,
PROCESSING AND PACKAGING INSTANT NONFAT DRY MILK,
NONFAT DRYMILK, DRY WHOLE MILK, DRY BUTTERMILK,
DRY WHEY, AND OTHER DRY MILK PRODUCTS

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785.545

Rooms and Compartments - Dry Storage of Product
Packaging Room for Bulk Products
Hopper or Dump Room
Repackaging Room
Equipment and Utensils - General Construction, Repair, and Installation
Preheaters
Hotwells
Evaporators and/or Vacuum Pans
Surge Tanks
High Pressure Pumps and Lines
Dryers
Collectors and Conveyors
Dry Dairy Product Cooling Equipment
Special Treatment Equipment
Sifters
Portable and Stationary Bulk Bins

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785.548 Automatic Sampling Device
 785.551 Dump Hoppers, Screens, Mixers and Conveyors
 785.554 Filler and Packaging Equipment
 785.557 Heavy Duty Vacuum Cleaners
 785.560 Clothing and Shoe Covers
 785.563 Operations and Operating Procedures - Pasteurization
 785.566 Condensed Surge Supply
 785.569 Condensed Storage Tanks
 785.572 Drying
 785.575 Cooling Dry Products
 785.578 Packaging, Repackaging and Storage
 785.581 Product Adulteration
 785.584 Checking Quality
 785.587 Requirements for Instant Nonfat Dry Milk
 785.590 Cleaning of Dryers, Conveyors, Sifters, and Storage Bins
 785.593 Insect and Rodent Control Program

SUBPART F: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING,
PROCESSING AND PACKAGING BUTTER AND RELATED PRODUCTS

Section
 785.600 Rooms and Compartments - Coolers and Freezers
 785.605 Churn Rooms
 785.610 Print and Bulk Packaging Rooms
 785.615 Equipment and Utensils - General Construction, Repair, and Installation
 785.620 Continuous Churn
 785.625 Conventional Churn
 785.630 Bulk Butter Trucks, Boats, and Packers
 785.635 Butter, Frozen or Plastic Cream Melting Machine
 785.640 Printing Equipment
 785.645 Brine Tanks
 785.650 Starter Vats
 785.655 Operations and Operating Procedures - Pasteurization
 785.660 Composition and Wholesomeness
 785.665 Containers
 785.670 Printing and Packaging
 785.675 General Identification
 785.680 Storage of Finished Product in Coolers
 785.685 Storage of Finished Product in Freezer

SUBPART G: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING
AND PACKAGING CHEESE

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Section
 785.700 Rooms and Compartments - Starter Room
 785.705 Make Room
 785.710 Drying Room
 785.715 Paraffining Room
 785.720 Rindless Block Wrapping Area
 785.725 Coolers or Curing Rooms
 785.730 Cutting and Packaging Rooms
 785.735 Equipment and Utensils - General Construction, Repair, and Installation
 785.740 Starter Vats
 785.745 Cheese Vats
 785.750 Mechanical Agitators
 785.755 Curd Mill and Miscellaneous Equipment
 785.760 Hoops and Followers
 785.765 Press
 785.770 Rindless Cheese Press
 785.775 Paraffin Tanks
 785.780 Operations and Operating Procedures - Cheese from Pasteurized Milk
 785.785 Cheese from Unpasteurized Milk
 785.790 Whey Disposal
 785.794 Packaging and Repackaging
 785.797 General Identification

SUBPART H: SUPPLEMENTAL REQUIREMENTS FOR PLANTS
MANUFACTURING, PROCESSING, AND PACKAGING PASTEURIZED
PROCESS CHEESE AND RELATED PRODUCTS

Section
 785.800 Equipment and Utensils - General Construction, Repair, and Installation
 785.810 Conveyors
 785.820 Grinders or Shredders
 785.830 Cookers
 785.840 Fillers
 785.850 Operations and Operating Procedures - Trimming and Cleaning
 785.860 Cooking the Batch
 785.870 Forming Containers
 785.880 Filling Containers
 785.890 Closing and Sealing Containers

SUBPART I: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING
AND PACKAGING FROZEN DESSERTS

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Section

785.900 Pasteurization of Frozen Dessert Mix
 785.910 Cooling
 785.920 Storage
 785.930 Laboratory Control Tests
 785.940 Packaging and Labeling
 785.950 Returns
 785.955 Lubricants
 785.960 Vehicles
 785.970 Frozen Desserts Retail Establishments
 785.980 Product Test Procedures and Quality Requirements
 785.990 Quality Standards for Raw and Pasteurized Dairy Ingredients, Mix, or Frozen Desserts

SUBPART J: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING,
 PROCESSING, AND PACKAGING EVAPORATED, CONDENSED OR
 STERILIZED MILK PRODUCTS

Section

785.1000 Equipment and Utensils - General Construction, Repair and Installation
 785.1010 Evaporators and Vacuum Pans
 785.1020 Fillers
 785.1030 Batch or Continuous In-container Sterilizers
 785.1040 Homogenizers
 785.1050 Operations and Operating Procedures - Preheat and Pasteurization
 785.1060 Filling Containers
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SUBPART K: ADMINISTRATIVE PROCEDURES

Section

785.1100 Licenses
 785.1110 Inspection
 785.1120 Licensure
 785.1130 Expiration and Revocation of License
 785.1140 Reinstatement
 785.1150 Licensing Plants and Milk Hauler/Samplers
 785.1155 Application for License
 785.1160 Plant Inspection
 785.1170 Suspension of License
 785.1175 Expiration, Suspension and Revocation of License
 785.1180 Reinstatement
 785.1190 Supervision - Department

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785.1200 Administrative Hearings
 785.1210 Pesticide, Herbicide and Mycotoxin Residue Control Program
 785.1220 Drug Residue Monitoring and Farm Surveillance

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1991 85, ch. 56 1/2, pars. 501 et seq.).

SOURCE: Filed as amended June 13, 1972, effective June 26, 1972, and August 14, 1972; codified at 8 Ill. Reg. 18491; Part repealed, new Part adopted at 11 Part Ill. Reg. 2356, effective February 1, 1987; amended at 17 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 785.110 Definitions

"Act" means the Illinois Food, Drug, and Cosmetic Act (Ill. Rev. Stat. 1991 85, chapter 56 1/2, pars. 501, et seq).

"Acceptable Milk" means milk that qualifies under Section 785.210 as to sight and odor and that is classified No. 1 or No. 2 for sediment content Section 785.220 and No. 1 or No. 2 for bacterial estimate Section 785.230.

"Atmosphere Relatively Free from Mold" means no more than 10 mold colonies per cubic foot of air as determined in Standard Methods.

"Bulk Milk Pick-up Tanker" means a vehicle including the truck, tank and those appurtenances necessary for its use, used by a milk hauler to transport bulk raw milk from a dairy farm for manufacturing purposes.

"Milk Hauler Sampler" means a person licensed by the Department as described in Section 785.1170(b) who is qualified and trained for the grading and sampling of raw milk in accordance with the quality standards and procedures of Subparts B and K.

"C-I-P or Cleaned-In-Place" means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation.

"Dairy Farm or Farm" means a place or premise where one or more milking cows or goats are kept, a part or all of the milk produced thereon being delivered, sold, or offered for sale to a plant for manufacturing purposes.

"Dairy Plant or Plant" means any place, premise, or establishment where milk or dairy products are received or handled for processing or manufacturing and/or prepared for

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"Laboratory" means the official laboratory operated by the Department and State approved laboratories authorized to do official work by the Department, or a milk industry laboratory designated by the Department for the examination of dairy farm producers samples of raw milk for processing and commingled milk tank truck samples of raw milk for drug, pesticide, herbicide, and mycotoxin analyses and bacterial tests.

"License" means a license issued under the Act by the Illinois Department of Public Health.

"Milk"

Milk is the lacteal secretion, free from colostrum, obtained by the complete milking of one or more healthy cows.

Goat milk is the lacteal secretion, free from colostrum, obtained by the complete milking of one or more healthy goats. Goat milk shall only be used to manufacture dairy products when legally provided for in the Code of Federal Regulations Title 21, traditional products using common or usual names.

The word "milk" used herein includes only milk for manufacturing purposes.

"Milk for Manufacturing Purposes" means milk produced for processing and manufacturing into products for human consumption but not subject to Grade A requirements.

"Milk Hauler-Sampler" means a person licensed by the Department as described in Section 785.1170(b) who is qualified and trained for the grading and sampling of raw milk in accordance with the quality standards and procedures of Subparts B and K.

"Official Methods" means 154th edition of Official Methods of Analysis of the Association of Official Analytical Chemists, a publication of the Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, DC.

"Probational Milk" means milk classified No. 3 for sediment content Section 785.220 or milk classified "Undergrade" for bacterial estimate Section 785.230 that may be accepted by plants for specific time periods.

"Producer" means the person or persons who exercise control over the production of the milk delivered to a processing plant or receiving station and those who receive payment for this product. A "new producer" is one who has only recently started producing milk

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distribution. When "plant" is used in connection with the production, transportation, grading, or use of milk, it means any plant that handles or purchases milk for manufacturing purposes; when used in connection with requirements for plants or licensing of plants, it means only those plants that manufacture dairy products.

"Dairy Products" means evaporated milk, condensed skim milk, condensed milk, concentrate milk, nonfat dry milk, dry milk, dry cream, dry whey, dry buttermilk, butter, buttermilk, cheese, cheese products, ice cream, ice milk, sherbert, frozen desserts, dairy confections, or novelties, related dairy products (products with butter fat or milk solids substitutions or milk and dairy product imitations) and other such dairy products for human consumption not regulated under 77 Ill. Adm. Code 775. All dairy products shall meet the applicable definitions and standards of identity as promulgated under the Federal Food Drug, and Cosmetic Act and published in Chapter 1, Title 21 of the Code of Federal Regulations.

"Department" means the Illinois Department of Public Health.

"Drug" means (A) articles recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; and (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (D) articles intended for use as a component of any articles specified in clause (A), (B), or (C), but does not include devices or their components, parts or accessories.

"Excluded Milk" means all of a producer's milk excluded from the market by the provisions of Section 785.260.

"Farm Licensing" means licensing by the Department that a producer's herd, milking facility and housing, milking procedure, cooling, milkhose or milkrum, utensils and equipment and water supply have been found to meet the requirements of subpart C for the production of milk to be used for manufacturing purposes.

"Field Representative ~~man~~" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

"Inspector" means a qualified, trained person employed by the Illinois Department of Public Health to perform dairy farm or plant inspections, raw milk grading, and sampling processed dairy products.

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for the market. A "transfer producer" is one who has been shipping milk to one plant and transfers his shipments to another plant.

"Quality Assurance Program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

"Reciprocity" means milk, cream, and dairy products from outside the State of Illinois may be sold in the State of Illinois upon certification from the state of origin in which the product is produced, processed, packaged, and stored under regulations which are equivalent to the rules of this Part and provided further that the governmental unit concerned accepts Illinois dairy products on a reciprocity basis.

"Reject Milk" means milk that does not qualify under Section 785.210 as to sight and odor, or that is classified No. 4 for sediment content Section 785.220, which is rejected by the plant by the provisions of Section 785.240.

"Sanitary conditions" and "sanitary manner" means under circumstances or prepared in such a manner as to be clean and free from contamination.

"Sanitizing Treatment" means application of any effective method or sanitizing agent to a clean surface for the destruction of pathogens and other organisms. The sanitizing agents used shall comply with the Federal Food, Drug, and Cosmetic Act 40 C.F.R. Parts 150-189, Section 162.3(ff)(2)(i)(B).

"Standard Methods" means the 15th Edition of Standard Methods for the Examination of Dairy Products, a publication of the American Public Health Association, 1015 - 15th, N.W., Washington, D.C. 20036.

"Violative drug residue" means a drug residue at or above the tolerance level set forth in 21 CFR 556 (1991) and/or safe levels as established by the federal Food and Drug Administration for drugs for which tolerance levels have not been set.

"3-A Sanitary Standards" means the standards for dairy equipment formulated by the 3-A Sanitary Standards Committees representing the International Association of Milk, Food and Environmental Sanitarians, the U.S. Public Health Service, and the Dairy Industry Committee. Published by the International Association of Milk, Food and Environmental Sanitarians, Box 701 Ames, Iowa 50010.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 785.120 Incorporated Materials

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a) The following materials are incorporated or referenced in this Part:

- 1) The Standard Methods for the Examination of Dairy Products, 15th Edition, 1985-88 American Public Health Association, 1015 - 15th Street, N.W., Washington, D.C. 20036). (See Section 785.110)
- 2) Official Methods of Analyses of the Association of Official Analytical Chemists (1514th Edition 1990 1989, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station, Washington, D.C. 20044). (See Section 785.110)
- 3) Illinois Plumbing Code - 77 Illinois Administrative Code 890 (See Section 785.405 - 785.410)
- 4) Illinois Pesticide Act of 1979 - (See Illinois Revised Statutes 1991 1985, chapter 5, pars. 801 et seq. and 8 Illinois Administrative Code 250). (See Section 785.405 - 785.920)
- 5) Standards for Approval of Milk Laboratories - 77 Illinois Administrative Code 463. (See Section 785.230 - 785.405)
- 6) Rules for Drinking Water Systems - 77 Administrative Code 900. (See Section 785.360 - 785.370 - 785.410 - 785.410)
- 7) Illinois Bovine Tuberculosis Eradication Act (Ill. Rev. Stat. 1991, ch. 8, par. 87) Bovine Brucellosis Eradication Act (Ill. Rev. Stat. 1991, ch. 8 par. 134). (See Section 785.300)
- 8) Illinois Food, Drug and Cosmetic Act (ch. 56 1/2, pars. 501 et seq.). (See Section 785.445)
- 9) Public Health and Safety (ch. 111 1/2, par. 1003(B)). (See Section 785.400 - 785.410)
- 10) State Government (Ill. Rev. Stat. 1991, ch. 127, par. 1016(c)). (See Section 785.1170)
- 11) Producing Culinary Steam for Processing Milk and Milk Products (Published by the National Association of Dairy Equipment Manufacturers, Washington D.C. April 1963). (See Section 785.410)
- 12) 7 CFR (See Part 58 - Subpart T). (See Section 785.220)

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2) Confirmatory testing will be done on milk when a herd milk sample exceeds any of the following screening test results:

- A) California Mastitis Test -- Weak positive (CMT 1+)
- B) Modified Whiteside Test -- Positive (1+).
- C) Wisconsin Mastitis Test -- WMT value of 18 mm.

3) A confirmatory test for somatic cell count shall be made on that sample using any of the following methods:

- A) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pynon Y - methyl green stain shall be used for goats milk.
- B) Electronic Somatic Cell Count.
- C) Optical Somatic Cell Count.
- D) Membrane Filter DNA Somatic Cell Count - The results of the confirmatory test shall be the official result.

4) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

- A) The producer shall be notified in writing by the milk plant with a warning of the excessive somatic cell count,
- B) Whenever records reveal two of the last four consecutive somatic cell counts exceed 1,000,000 per ml the Department shall send a written notice to the producer. This notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 per ml.

5) A third milk sample shall be taken after a lapse of 3 days and within 21 days. If this sample also indicates a high somatic somatic cell count, the patrons milk shall be rejected until compliance is obtained. A temporary license shall be approved by the Department whenever an additional sample of herd milk is tested and found to conform to requirements. The producer shall be fully reinstated when three out of four consecutive tests have counts of 1,000,000 or less somatic cells per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

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13) 21 CFR (See Part 133, 135, 173, and 556). (See Section 785.110, 785.290 - 785.300 - 785.410 - 785.415 - 785.440)

14) 40 CFR (See Part 163). (See Section 785.110)

15) Illinois Food Service Sanitation (77 Illinois Administrative Code 750). (See Section 785.970940)

16) The Veterinary Medicine and Surgery Practice Act of 1983 (Ill. Rev. Stat., 1991, ch. 111, pars. 7002 et seq.)

b) All incorporation by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All citations to federal regulations in this Part concern the specified regulation in the 1991 ~~1986~~ Code of Federal Regulations, unless another date is specified.

d) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs and Dairies (525 West Jefferson, Springfield, Illinois 62761).

(Source: Amended at 17 Ill. Reg. _____, effective _____)

SUBPART B: ILLINOIS QUALITY REQUIREMENTS FOR MILK FOR
MANUFACTURING PURPOSES

Section 785.200 Basis

Raw milk for manufacturing purposes from all individual producers shall be based on the following: organoleptic examination (appearance and odor), quality control tests for sediment content, bacterial estimate, somatic cell count, and ~~drugs~~ ~~antibiotics~~.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 785.290 Abnormal Milk

a) Mastitic Milk

- 1) A laboratory examination for the presence of somatic cells shall be made on all producers milk at least 4 times in each 6 months period at irregular intervals. Samples shall be analyzed at an official laboratory or at a laboratory approved by the Department.

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(b) Drugs/Antibiotics:

- (1) At least four times in 6 months, at irregular intervals, a separate or commingled sample of each producer's milk shall be tested for drug ~~antibiotic~~ residues. Whenever a producer's milk shows a violative drug residue ~~positive test~~ the this milk shall be removed from all markets and the Department immediately notified by the industry certified laboratory. The producer's license ~~He~~ shall not be reinstated until provisions of 785.1220, Drug Residue Monitoring and Farm Surveillance, ~~are met, a subsequent test of the milk is negative.~~
- (2) All bulk milk pick-up tankers or milk received directly from the farm bulk tank shall be sampled and tested in accordance with Section 785.1220. Methods which have been evaluated by Association of Official Analytical Chemists and recommended by the Food and Drug Administration at currently referenced levels shall be used for regulatory action for each drug of concern. FDA shall review the AOAC evaluations for each test kit and make a determination as to the acceptability of the use of the method. Regulatory action shall be taken on all violative results (see Section 785.1220). A result shall be considered violative if it has been obtained by using a method which has been evaluated and deemed acceptable by FDA at levels established in memoranda transmitted periodically by FDA as required by Section 785.1220(3) and the test completed by a qualified individual as approved by the Department.
- (c) Radionuclides: When notified by Illinois Department of Nuclear Safety, composite milk samples shall be collected from selected areas and tested for biologically significant radionuclides.
- (d) Pesticides and Herbicides: Composite milk samples shall be tested for pesticides and herbicides at a frequency of once every six months which the Department determines to be adequate to protect the consumer. ~~If the a samples shall not exceed~~ established Food and Drug Administration's limits, (21 C.F.R. Part 193 and 40 C.F.R. Part 180) procedures set forth in Section 785.1210 shall be followed.
- (e) Added Water: The presence of added water in raw or pasteurized milk constitutes adulteration. The presence of added water is indicated by a milk cryoscope reading of -524 Hortvet or -507 Centigrade or higher when tested. After two occurrences of adulterated milk within a six-month period, the plant or producer will be required to show cause and reason for the addition of water. After a third occurrence, the Department will institute administrative proceedings to revoke the plant or producer's permit. Individual producer milk samples shall be tested for added water from each producer monthly. If the results show more than 2% added water the producer is notified in writing by the Department and another sample collected within 10 days.

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- f) Farm Milk Collection: Milk from producers shall be collected at intervals not exceeding four calendar days except in emergency situations where roads are impassible in which delivery time may be extended an additional day. Milk determined to contain over 200,000 bacteria per ml. shall be collected every two calendar days. It is the duty of the dairy plant to notify bulk milk hauler/samplers whenever a maximum two day pick-up and delivery is required.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

SUBPART C: FARM REQUIREMENTS FOR FARMS PRODUCING MILK FOR MANUFACTURING

Section 785.300 Health of Herd

- a) General Health: All animals in the herd shall be maintained in a healthy condition, and shall be properly fed and kept.
- b) Tuberculin Test: Cows shall be located in a Modified Accredited Area, Accredited Free State, or an Accredited Free Herd as determined by the U.S. Department of Agriculture (USDA). Goats shall be located in States meeting the current USDA Uniform Methods and Rules -- Tuberculosis Eradication for domestic bovine, or an Accredited Free Goat Herd. If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the foreshad program. All addition's to the herd shall be from an area or from herds meeting those same requirements. (See Ill. Rev. Stat. 1991 4985, Ch. 8, par. 87 and par. 134).
- c) Brucellosis Test: The cows shall be located in States meeting class B status, or Certified-Free Herds, or milk ring test program, or blood testing program of the current USDA Brucellosis Eradication Uniform Methods and Rules. All additions to the herd shall be from a State or from herds meeting these same requirements.
- d) Abnormal Milk: Milk from cows known to be infected with mastitis or milk containing violative drug residue(s) ~~residues of antibiotics~~, or milk containing pesticides or other chemical residues exceeding the Department limits shall not be sold or offered for sale for human food (21 C.F.R. Part 193 and 40 C.F.R. Part 180). The milk shall be disposed of in a manner approved by the Department ~~as animal feed or buried in an approved landfill.~~

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 785.355 Protection from Contamination

- a) Equipment used to administer medicinals/drugs shall not be cleaned in the wash vats and shall be stored so as not to contaminate the milk or milk contact surfaces of equipment.

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b) Drugs and medicines shall be stored in such a manner that they cannot contaminate the milk or milk product contact surface of the equipment, containers or utensils. Such products shall be properly labeled to include:

- 1) The name and address of the manufacturer or distributor (for O.T.C. medicines/drugs), or veterinary practitioner dispensing the product (for Rx and Extra-Label use medicines/drugs), and,

- 2) Directions for use, and prescribed withholding times, and,

- 3) Cautionary statements, if needed

- 4) Active ingredient(s) in the drug product

c) Unapproved and/or improperly labeled medicinals/drugs shall not be used to treat dairy animals and shall not be stored in the milkhous, milking barn, stable or parlor. Medicinals/drugs intended for treatment of non-lactating dairy animals shall be segregated from those medicinals/drugs used for lactating animals. (Separate shelves in cabinets, refrigerators, or other storage facilities satisfy this item.)

d) Topical antiseptics, wound dressings, (unless intended for direct injection into the teat) vaccines and other biologics, and dosage form vitamins and/or mineral products are exempt from labeling and storage requirements except when it is determined that they are stored in such a manner that they may contaminate the milk or milk product surfaces of containers or utensils.

(Source: Added at 17 Ill. Reg. _____, effective _____)

SUBPART E: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING INSTANT NONFAT DRY MILK, NONFAT DRY MILK, DRY WHOLE MILK, DRY BUTTERMILK, DRY WHEY, AND OTHER DRY MILK PRODUCTS

Section 785.578 Packaging, Repackaging and Storage

a) Containers: Packages or containers used for the packaging of nonfat dry milk or other dry milk products shall be any clean container or packaging material which will protect the contents through the regular channels of trade, without impairment of quality with respect to flavor, wholesomeness or moisture content under the normal conditions of handling. In no instance will containers which have previously been used for nonfood items be allowed to be used for the bulk handling of dairy products.

b) Filling: Empty containers shall be protected at all times from possible contamination and containers which are to be lined shall not be prepared more than 1 hour in advance of

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filling. Every precaution shall be taken during the filling operation to minimize product dust and spillage. When necessary a mechanical shaker shall be provided; the tapping or pounding of containers shall be prohibited. The containers shall be closed immediately after filling and the exteriors shall be vacuumed or brushed when necessary to render them free of product remnant before being transferred from the filling room to the palleting or dry storage areas.

c) Repackaging: The entire repackaging operation shall be conducted in a sanitary manner with all precautions taken to prevent contamination and to minimize dust. All exterior surfaces of individual containers shall be free of product before overwrapping or packing in shipping containers (See Section 785.465). The flow shall be kept free of dust accumulation, waste, cartons, liners, or other refuse. Conveyors, packaging and cartonnage equipment shall be vacuumed frequently during the operating day to prevent the accumulation of dust. No bottles or glass materials of any kind shall be permitted in the repackaging or hopper room. The inlet openings of all hoppers and bins shall be screened, and placed well above the floor level. The room and all packaging equipment shall be cleaned as often as necessary to maintain a sanitary operation. Close attention shall be given to cleaning points of equipment where residues of the dry product may accumulate. A thorough cleanup including windows, doors, walls, light fixtures, and ledges, shall be performed as frequently as is necessary to maintain cleanliness and sanitation. All waste dry dairy products including dribble product at the fillers shall be identified and disposed of as animal feed.

d) Storage

1) Product: The packaged dry milk product shall be stored or so arranged in aisles, rows, or sections and lots at least 18 inches from any wall and in such a manner as to be orderly, easily accessible for inspection or for cleaning of the room. All bags and small containers of product shall be placed on pallets elevated approximately 6 inches from the floor. The storage room shall be kept clean and dry and all openings protected against entrance of insects and rodents.

2) Supplies: All supplies shall be placed on dunnage or pallets and arranged in an orderly manner for accessibility and cleaning of the room. Supplies shall be kept enclosed in their original wrapping material until used. After removal of supplies from their original containers they shall be kept in an enclosed metal cabinet, bins, or on shelving and if not enclosed shall be protected from powder and dust or other contamination. The room shall be vacuumed as often as necessary and kept clean and orderly.

(Source: Added at 17 Ill. Reg. _____, effective _____)

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SUBPART K: ADMINISTRATIVE PROCEDURES

Section 785.1210 Pesticide, Herbicide and Mycotoxin Residue Control Program

- a) The following describes the Department's Pesticide, Herbicide and Mycotoxin residue control program for raw milk under Section 785.290.
- 1) If the analysis of a sample from a bulk tank truck shows a level of any of the pesticides, herbicides or mycotoxins above the action levels contained in Section 785.1210(b), then an individual sample is collected from each producer's milk that was in the tank truck to determine which producer or producers have created or contributed to the problem.
 - 2) When the individual resampling is complete and the test indicates high pesticide residue levels equal to or above action level another sample will be taken within 15 days to determine whether this adulteration is continual or has been a one time situation.
 - 3) If the second sample under Section 785.1210(a)(2) shows an action level equal to or greater than those contained in 785.1210(b), then all of the producer's milk will be removed from the market and not offered for sale for human consumption until an official sample test shows the residue falls below the action level.
 - 4) The milk supply will then be provisionally reinstated for human use and samples will be taken on a monthly basis. Should the next sample be above action level, the milk will again be removed from the market and not offered for sale for human consumption.
 - 5) When two consecutive monthly samples are below the action level, the producer's supply shall be fully reinstated.

- b) The following Action levels have been established for the Pesticide, Herbicide and Mycotoxin Residue Control Program (PPM = parts per million, PPB = parts per billion):

1) Aldrin	- 0.3 PPM
2) Dieldrin	- 0.3 PPM
3) Endrin	- 0.3 PPM
4) Lindane	- 0.3 PPM

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- 5) Heptachlor or
Heptachlor Epoxide
-the action level for either
or both combined is 0.1 PPM
- 1.5 PPM
- 0.5 PPB
- 1.25 PPM
- 6) PCB
- 7) Aflatoxin
- 8) D.D.T.

(Source: Added at 17 Ill. Reg. _____, effective _____)

Section 785.1220 Drug Residue Monitoring and Farm Surveillance

The following describes the Department's Drug Residue Monitoring and Farm Surveillance Program. It is established to reference safe levels and/or tolerances and to assure milk supplies are in compliance with these safe levels or established tolerances for drug residues in milk.

1) Industry Responsibilitiesa) Monitoring and Surveillance

- 1) Industry shall screen all bulk milk pick-up tankers for beta lactam drug residues. Additionally, other drug residues shall be screened for by employing a random sampling program on bulk milk pick-up tankers. The random bulk milk pick-up tanker sampling program shall represent and include during any six months, at least four (4) samples collected in at least four (4) separate months. Samples shall be analyzed as specified by the Department.
- 2) Bulk milk pick-up tanker testing shall be completed prior to processing the milk. Bulk milk pick-up tanker samples found to have a violative drug residue shall be retained as determined necessary by the Department. Industry shall also record all sample results and retain such records for a period of six months.

b) Reporting and Farm Traceback

- 1) When a bulk milk pick-up tanker is found to have a violative drug residue, the Department shall be immediately notified of the results and the ultimate disposition of the raw milk.

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- veterinarian have completed a quality assurance program, but in no case for greater than 30 days.
- 4) When the field representative has signed and transmitted to the Department a copy of the quality assurance program completion certificate signed by the producer and a licensed veterinarian, the producer's manufactured permit shall be fully reinstated.
- 3) Established Tolerances and/or Safe Levels of Drug Residues
- a) Tolerances for drugs which may result in residues in milk are set forth in 21 CFR 556 (1991).
- b) "Safe levels" are used by the Department for prosecutorial discretion. They do not legalize residue found in milk that are below the safe level. Safe levels as established by the Federal Food and Drug Administration will be transmitted by the Department via Technical Releases.

(Source: Added at 17 Ill. Reg. _____, effective _____)

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- 2) The individual sample collected from each producer's milk that was in the bulk milk pick-up tanker that was found to have a violative drug residue, shall be immediately tested to determine which producer or producers have created or contributed to the drug residue.
- 3) Further pickups of the violative individual producer or producers shall be immediately discontinued until such time that subsequent tests no longer indicate violative drug residues and enforcement requirements of Section 785.1220(2)(b) have been met.
- 2) Department Responsibilities
- a) Monitoring and Surveillance
- 1) The Department shall monitor industry surveillance activities by making unannounced on-site inspections to collect samples from bulk milk pick-up tankers and to review industry records of the random sampling program.
- 2) The Department shall also perform routine sampling and testing for drug residues determined to be necessary.
- b) Enforcement
- 1) If testing reveals violative drug residues, the milk shall be disposed of in a manner that removes it from the human or animal food chain except where reconditioned under Department approval.
- 2) When the individual testing as required in Part 1(b)(2) of this Section is complete and the tests indicate any drug residue at or above the tolerance and/or safe levels, the producer's permit will be summarily suspended. Another sample will be taken from milk produced after a 48 hour withholding period to determine whether this adulteration is continual. On the second and third occurrence of the violative drug residue in a 12 month period, the producer's Grade A permit will be summarily suspended. Another sample will be taken from milk produced after a 96 hour withholding period to determine whether this adulteration is continual. For the third occurrence of a drug residue in any 12 month period the Department shall initiate administrative procedures pursuant to revocation of the producer's permit.
- 3) If the resample shows no violative drug residue, the permit will then be conditionally reinstated until such time as the producer and a licensed

DEPARTMENT OF REHABILITATION SERVICES

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1) Heading of the Part: Client Responsibilities

2) Code Citation: 89 Ill. Adm. Code 680

3) Section Numbers: Proposed Action:
680.300 Amendment

4) Statutory Authority:

Section 3(g) of The Disabled Persons Rehabilitation Act
(Ill. Rev. Stat. 1991, ch. 23. par 3434(g)).

5) A Complete Description of the Subjects and Issues involved:
The amendment is in response to a JCAR Statement of Recommendation to Proposed Rulemaking, recommending DORS amend Section 680.300 so that it reflects Department policy that clients are required to sign the Client/Provider Agreement form in order to receive services. Section 680.300(f) is added to include all documents that require signature.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date?
Yes X No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

Section Numbers Proposed Action Illinois Register Citation
10) Statement of Statewide Policy Objectives (if applicable):
This is not applicable to this Rulemaking.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

DEPARTMENT OF REHABILITATION SERVICES

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Telephone number: (217) 785-3896
T.D.D./T.T.: (217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 680
CLIENT RESPONSIBILITIES

- Section
680.100 Eligibility Determination
680.200 Reporting Changes of Circumstances
680.300 Other Client Responsibilities

AUTHORITY: Section 3(g) of The Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, par. 3434(g)).

SOURCE: Adopted and codified at 7 Ill. Reg. 8862, effective July 18, 1983; amended at 15 Ill. Reg. 15749, effective October 21, 1991; amended at 17 Ill. Reg. _____, effective _____.

Section 680.300 Other Client Responsibilities

- a) Clients must cooperate with Department projects conducted for the purpose of obtaining or validating general program information or operations, where such projects are not related to client-specific eligibility.
- b) Clients are required to provide a mailing address, telephone number (if they have one), and sufficient information to enable local office staff to locate the client including directions to the client's home, if necessary. The client will also provide the name, address and phone number of an individual who will know the whereabouts of the client and/or through whom the client can be located.
- c) Clients are required to apply for all other financial or service benefits for which they may qualify insofar as these benefits may affect HSP eligibility, client cost share amount, or cost of service to DORS, with the exception of benefits in subsection (d) below. Clients are further to avail themselves of such benefits at the earliest possible date and may request local office staff to assist in the process of seeking such benefits.

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- d) Clients may choose to apply for Medicaid, pursuant to 89 Ill. Adm. Code 685.150.
- e) Clients are required to avail themselves of all potential resources, including claiming the maximum number of allowable exemptions from State and Federal income tax returns.
- f) In order to receive services, or continue to receive services, clients are required to sign all forms, and supply any information required by those forms, which are determined necessary by DORS to comply with applicable State or Federal laws or the provisions of the Medicaid Waiver or are necessary to process payments through the Comptroller's Office. Clients receiving Personal Assistant services must also sign the Client/Provider Agreement.

(Amended at 17 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Grants and Contracts
- 2) Code Citation: 89 Ill. Adm. Code 525
- 3) Section Numbers: Proposed Action:
525.500 New Section
- 4) Statutory Authority: Implementing Section 3(k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, para. 3434 (k)).
- 5) A Complete Description of the Subjects and Issues involved:
This new section requires any entity which holds a contract or contracts, which singly or aggregately exceed \$15,000 excluding those let under the title of professional and Artistic and Personal Services, or any entity which holds a rate agreement or rate agreements which are expected to generate in excess of \$15,000 to have a Telephone Device for the Deaf/Text Telephone (TDD/TT) to ensure programmatic accessibility for individuals who are deaf or hearing impaired.

The rules outline the requirements, including the requirement of an adequate number of staff trained in the use of TDD/TT's, a contractor/rate agreement holder must meet. It further outlines an internal appeals procedure for contractors/rate agreement holders who feel aggrieved by DORS' initiation of these requirements.

The new section also contains provisions for contract/rate agreement termination if the contractor/rate agreement holder fails to come into compliance with the provisions of this section.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No
- 8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

Section Numbers Proposed Action Illinois Register Citation

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- 10) Statement of Statewide Policy Objectives (if applicable):
This is not applicable to this Rulemaking.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warrner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429
Telephone number: (217) 785-3896
T.D.D./T.T.: (217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 525
GRANTS AND CONTRACTS

Section

525.10 Non-Discrimination Compliance Requirements
525.500 TDD/TT Requirements for Contractors/Rate Agreement Holders

AUTHORITY: Implementing Section 3(k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, par. 3434(k)).

SOURCE: Adopted at 13 Ill. Reg. 9580, effective June 12, 1989;
Amended at 17 Ill. Reg. _____, effective _____.525.500 TDD/TT Requirements for Contractors/Rate Agreement Holders

a. Contractor/Rate Agreement Holder Requirements

Any entity which holds a contract or contracts with DORS which singly or aggregately exceed \$15,000.00, with the exception of Professional and Artistic Contracts and Personal Services Contracts, and/or any entity which has a Rate Agreement or Rate Agreements which are expected to generate in excess of \$15,000.00, must have a Telephone Device for the Deaf/Text Telephone (TDD/TT) to ensure programmatic accessibility for individuals who are deaf or hearing impaired.

The TDD/TT should be located on the site where services are provided to DORS clients, or the majority of the work is done under the contract/rate agreement. Exception to this requirement will be made if the contractor/rate agreement holder can provide a reasonable plan to DORS to use a TDD/TT off-site to fulfill this requirement. This plan must be submitted and approved by the Project Officer, as described in sub-section (b), below.

b. Contractor/Rate Agreement Holder Compliance Time Frames

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All contractors/rate agreement holders with existing contracts/rate agreements shall have 90 calendar days to come into compliance with this requirement from the effective date of these rules. All entities seeking contracts/rate agreements with DORS shall come into compliance with this requirement within 10 days of the date the contract is signed and put into effect by DORS' Director.

All contractors/rate agreement holders shall ensure that enough staff (i.e., at least one staff person per shift) is trained to adequately handle all anticipated telephone calls made or received via the TDD/TT. If insufficient staff has been trained to fulfill this requirement, the contractor/rate agreement holder must submit a TDD/TT training plan to the Project Officer for review and approval.

c. Termination of Contracts/Rate Agreements for Non-compliance

Pursuant to the termination clause in all contracts/rate agreements let by DORS, DORS shall notify the contractor/rate agreement holder that the contract/rate agreement shall be terminated for failure of the contractor/rate agreement holder to comply with this requirement and that DORS shall make no further payments under the contract/rate agreement.

d. Contractor/Rate Agreement Holder Grievance Procedures

Any contractor/rate agreement holder that feels aggrieved because of this action by DORS may appeal this requirement. The contractor/rate agreement holder may request an appeal of the decision to terminate the contract/rate agreement by making a written request to the Deputy Director - Bureau of Fiscal Operations (BFO) or designee, DORS Central Office. This request must be received no later than 10 working days of the date the contractor/rate agreement holder was informed of the violation and DORS' intent to make the contract/rate agreement null and void.

The Deputy Director - BFO or designee, as chairperson of the TDD/TT Compliance Hearings Committee (Committee), shall acknowledge receipt of the request for the hearing and shall inform the contractor/rate agreement holder of the date for the hearing. The date

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of the hearing shall be within 10 working days of the date the request is received from the contractor/ rate agreement holder.

The Committee shall be compromised of three persons: the Deputy Director - BFO or designee who will act as the chairperson; the Manager - Division of Services for the Hearing Impaired; and DORS' Americans with Disabilities Act Coordinator or his/her designee.

Within 5 working days of the hearing, the Committee shall send the grievant a written decision on the grievance. Copies will also be provided to DORS Director and the DORS staff person who is the contact person for the contract/rate agreement.

Within 10 working days of the issuance of the Committee's decision, DORS Director may issue an intent to review letter to the contractor/rate agreement holder.

If DORS Director issues a letter of intent to review, he/she shall within 5 working days, issue the final decision on the grievance. Copies shall be sent to the contractor/rate agreement holder, the Committee chairperson and the DORS staff person who is the contact person for the contract/rate agreement.

If DORS Director does not issue a letter of intent to review, the decision of the Committee shall become final the fifth day after the decision is issued by the Committee.

This shall exhaust the grievance procedures available for a contractor/rate agreement holder for such grievances against DORS.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Medical, Psychological, and Related Services

2) Code Citation: 89 Ill. Adm. Code 587

3) Section Numbers: Proposed Action:
587.610 New

4) Statutory Authority:
Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, pars. 3434(a), (b), and (k)) (20 ILCS 2405/3a,3b, and 3k).

5) A Complete Description of the Subjects and Issues involved:
Section 587.610 added to establish policy regarding transitional living services and vocational rehabilitation services in a residential setting for an individual with Traumatic Brain Injury.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date?
Yes ☐ X No ☐

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

Section Numbers Proposed Action Illinois Register Citation

10) Statement of Statewide Policy Objectives (if applicable):
This is not applicable to this Rulemaking.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

Telephone number: (217) 785-3896
T.D.D./T.T.: (217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 587

MEDICAL, PSYCHOLOGICAL, AND RELATED SERVICES

Section	
587.10	General Applicability
587.20	Criteria for Medical Services
587.30	Exclusion from Medical Services
587.40	Written Recommendations from Physicians
587.50	Medical Service Providers
587.60	Treatment for Acute Conditions
587.70	Medication
587.100	Ear Examinations (Repealed)
587.105	Payment for Hearing Aids
587.106	Medical Evaluations
587.107	Hearing Evaluations
587.110	Hearing Aid Evaluations
587.111	Vendor Requirements for Hearing Evaluations and Hearing Aid Evaluations
587.120	Binaural Hearing Aids
587.130	Speech and Language Services
587.200	Low Vision Aids
587.300	Mental Restoration Services
587.400	Heart Surgeries
587.410	Intestinal By-Pass or Stapling Surgery
587.420	Abortions
587.430	Transsexual Surgery
587.440	Organ Transplants
587.450	Chiropractic Services
587.500	Prosthetic or Orthotic Devices
587.510	Wheelchairs
587.600	Experimental Stage Therapeutic Devices or Procedures
587.610	Services to an Individual with Traumatic Brain Injury (TBI)

AUTHORITY: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, pars. 3434(a), (b), and (k)) (20 ILCS 2405/3a, 3b, and 3k).

SOURCE: Adopted at 9 Ill. Reg. 8813, effective June 10, 1985; amended at 10 Ill. Reg. 13671, effective August 4, 1986; amended at 11 Ill. Reg. 5309, effective March 11, 1987; amended at 12 Ill. Reg. 15621, effective September 16, 1988; amended at 13

DEPARTMENT OF REHABILITATION SERVICES

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Ill. Reg. 1850, effective January 27, 1989; amended at 14 Ill. Reg. 6785, effective April 20, 1990; amended at 15 Ill. Reg. 7370, effective April 30, 1991; amended at 16 Ill. Reg. 8235, effective May 18, 1992; amended at 17 Ill. Reg. _____, effective _____.

Section 587.610 Services to an Individual with Traumatic Brain Injury (TBI)

DORS will not provide transitional living services in a residential setting for an individual with TBI. DORS may, however, provide diagnostic services to determine eligibility for vocational rehabilitation services (Ill. Adm. Code 552) and vocational services as part of an IWRP (Ill. Adm. Code 572) for an individual with TBI who is a resident in a transitional living setting.

(Source: Added at 17 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers:

1030.16	New Section
1030.18	New Section
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (625 ILCS 5/2-104(b), formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 2-104(b)) and Section 6-100 et seq. of the Illinois Driver Licensing Law of the Illinois Vehicle Code (625 ILCS 5/6-100 et seq., formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-100 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved:1030.16 outlines the procedures for determining when an individual must file a medical report as a condition of licensure. The rule also specifies in which instances a medical report(s) will be forwarded to the Medical Advisory Board for review. This section codifies the procedures for contesting a finding by the Board, as well as requesting a hearing. 1030.18 describes the types of functions a person must be able to perform in order to operate a motor vehicle safely. These criteria are used by the Board when reviewing cases which have been forwarded by the Driver Services Department. The criteria shall also be used in determining the scope of a hearing.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rulemaking contain incorporations by reference? No, this amendment does not contain incorporations by reference.
- 9) Are there any other amendments pending on this part?

Section Number	Proposed Action	Illinois Register Citation
1030.115	Amendment	16 Ill. Reg. 17229 (November 13, 1992)
1030.120	Amendment	16 Ill. Reg. 12138 (July 31, 1992)
1030.130	Amendment	16 Ill. Reg. 12128 (July 31, 1992)

10) Statement of Statewide Policy Objective: This rulemaking will have no effect on local units of government.

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- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:

Robert J. Watkins
 Assistant Counsel to the Secretary
 2701 S. Dirksen Parkway
 Springfield, IL 62723
 217/782-5356

- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any types of small businesses and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

The full text of the proposed rule is identical to the the Emergency Text appearing in this issue of the Illinois Register on Page 1221.

ILLINOIS REGISTER

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NOTICE OF PROPOSED AMENDMENTS

- | 1) Heading of Part: | Literacy Grant Program |
|---------------------|------------------------|
| 2) Code Citation: | 23 Ill. Adm. Code 3040 |
| 3) Section Number: | Proposed Action |
| 3040.100 | Amendment |
| 3040.110 | Amendment |
| 3040.120 | Amendment |
| 3040.130 | Amendment |
| 3040.140 | Amendment |
| 3040.150 | Amendment |
| 3040.160 | Amendment |
| 3040.170 | Amendment |
| 3040.200 | Amendment |
| 3040.210 | Amendment |
| 3040.220 | Amendment |
| 3040.230 | Amendment |
| 3040.240 | Amendment |
| 3040.250 | Amendment |
| 3040.260 | Amendment |

- 4) Statutory Authority: Implementing and authorized by the State Library Act 111. Rev. Stat. 1991, ch. 128, pars. 101 et seq.

- 5) A Complete Description of the Subjects and Issues Involved:

These amendments address five types of changes. First are changes which relate to a clearer application and review process for the community and workplace grant programs. The changes reflect the suggestions of the Literacy Advisory Board which reviews applications and makes recommendations for funding to the Secretary of State. The role of program monitors in grant review is also more clearly delineated.

The second category of changes in the community program relates to the issue of adding language in various sections to include math students as eligible for service in programs and to specify an assessment tool for math instruction.

Third, recordkeeping and reporting requirements for both community and workplace programs are more clearly described to ensure compliance.

Fourth is clarification of "Adult Educational Provider" for the workplace grant program including the addition of "association." A definition of "association" is also provided.

Fifth, consistency in language throughout the rules and regulations regarding vocabulary, punctuation, and capitalization has been established for both programs.

NOTICE OF PROPOSED AMENDMENTS

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking. Written comments may be submitted within 45 days to:
- Judith Rake, Literacy Program Coordinator
Secretary of State Literacy Office
431 South Fourth Street
Springfield, Illinois 62701
- 12) Initial Regulatory Flexibility Analysis:
- A. Types of small businesses affected: N/A
- B. Reporting, bookkeeping or other procedures required for compliance: Tightened reporting schedules only.
- C. Types of professional skills necessary for compliance: N/A

The full text of the proposed rules is as follows:

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3040
LITERACY GRANT PROGRAM

SUBPART A: LITERACY PROVIDER PROGRAM

SECTION	Purpose
3040.100	Definitions
3040.110	Application for Grant
3040.120	Review of Grant Applications
3040.130	Award of Grants, Interim Reports And Final Report Recordkeeping
3040.140	Cancellation of Grant
3040.150	Audit Procedures
3040.160	Other Requirements
3040.170	Invalidity
3040.180	

SUBPART B: WORKPLACE LITERACY PROGRAM

SECTION	Purpose
3040.200	Definitions
3040.210	Application for Grant
3040.220	Review of Grant Applications
3040.230	Award of Grant, Interim Financial Reports, and Final Program Progress Reports
3040.240	Cancellation of Grant
3040.250	Other Requirements
3040.260	Invalidity
3040.270	

AUTHORITY: Implementing and authorized by the State Library Act (Ill. Rev. Stat. 1991, ch. 128, pars. 101 et seq.)(15 ILCS 320/1).

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15563, effective October 2, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 4916, effective March 11, 1986; amended at 11 Ill. Reg. 17258, effective October 15, 1987; amended at 15 Ill. Reg. 18757, effective December 17, 1991, amended at 16 Ill. Reg. 13084, effective August 15, 1992; amended at 17 Ill. Reg. _____, effective _____.

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SUBPART A: LITERACY PROVIDER PROGRAM

Section 3040.100 Purpose

The Literacy Provider Program is part of the Literacy Grant Program established by Section 7.2 of the State Library Act (Ill. Rev. Stat. ~~1989~~ 1991, ch. 128, par. 107.2)(15 ILCS 320/1), to develop, expand or support adult literacy programs in Illinois through local community programs administered by education agencies, libraries, volunteer or community-based organizations, or a coalition thereof. The local adult literacy programs will provide instruction in literacy to persons 16 years or older who read or compute below a ninth (9th) grade level.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.110 Definitions

"Adult" means an individual in Illinois who has exceeded the maximum age for compulsory schooling (sixteen) and is not currently enrolled in school (Article 26 of The School Code, Ill. Rev. Stat. ~~1989~~ 1991, ch. 122, pars. 26-1 et seq.)(15 ILCS 320/1).

"Application" ~~shall~~ means the written request for a literacy grant submitted to the LAB pursuant to this Part. Applications shall be submitted by the legal entity responsible for the disbursement of public funds.

"Coalition" means a structured cooperative effort between a library system, library or libraries, education agency or agencies, and community-based organization or organizations, or any combination thereof at the local or regional level.

"Community" means a village or city, county, or any local municipality in Illinois.

"Community-based organization" means a private or public not-for-profit organization, including volunteer organizations, located in an Illinois community, which provides services to citizens within that community and the surrounding area.

"Fiscal year" ~~shall~~ means the fiscal year of the State of Illinois.

"Illiteracy" means the inability to read, write, compute, or comprehend above the 8.9 grade level.

"Illiterate adult" means an adult whose minimal skills in reading, writing, computation, or comprehension preclude the individual from functioning in society.

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"LAB" means the Literacy Advisory Board established by Section 7.2 of the State Library Act (Ill. Rev. Stat. ~~1989~~ 1991, ch. 128, par. 107.2)(15 ILCS 320/1).

"Library" means the main facility for a tax-supported public library within an Illinois library system.

"Literacy" means the ability of an individual to read, write, compute, and comprehend above the 8.9 grade level.

"Literacy Program" means a structured project or program which provides direct instructional services in literacy to adult students.

"Math Student" means an adult whose math skills are below the 9.0 grade level who is enrolled in the literacy program for math instruction.

"Participating Agency" means those agencies who will receive part of the grant funds or who will actively participate in the literacy project as an essential component of that project, without whose participation the project would fail or be radically changed.

"Secretary of State" means the Illinois Secretary of State.

"State Library" means the Illinois State Library, a department of the Illinois Secretary of State established pursuant to the State Library Act (Ill. Rev. Stat. ~~1989~~ 1991, ch. 128, pars. 101 et seq.)(15 ILCS 320/1).

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.120 Application for Grant

a) A request for a grant shall be submitted to the LAB in writing postmarked no later than October 15, 1985, for Fiscal Year 1986, and April 15th for every fiscal year thereafter. Applicants shall use the forms prepared and made available by the Secretary of State for this purpose. Applications not submitted on time or on the required forms shall not be considered by the LAB.

b) Applications shall be submitted to the Literacy Office, Illinois State Library, 431 South Fourth Street, Springfield, Illinois 62701.

c) Applications shall be reviewed by the LAB. Awards shall be made on or after December 1, 1985, for Fiscal Year 1986 and on or after July 1st of every year thereafter for the fiscal year then commencing.

d) Grants shall not exceed \$50,000 to any one grant applicant in Fiscal Year 1986. The maximum grant amount for each fiscal year thereafter

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shall be determined by the Secretary basing his or her decision upon the amount of money appropriated by the General Assembly and the likely number of grant applications.

- e) Applications must be submitted in one (1) original and nineteen (19) copies.
- f) The first grant period shall be for a period of six (6) months, January 1, 1986, until June 30, 1986. Thereafter, the grant period shall be the fiscal year.
- g) Applications shall include the following information:
 - 1) The name of the literacy program for the community.
 - 2) The name and address of the grant applicant.
 - 3) The name and telephone number of the grant project director or executive officer.
 - 4) The name, address, telephone number, Federal Employer Identification Number (FEIN), and signature of the grant applicant's fiscal officer, who will receive any approved grant and be responsible for the grant funds.
 - 5) The term of the literacy program.

6) The total amount of grant money requested for the literacy program.

7) A brief and explicit description of the literacy program purpose and goals.

8) A statement supported by statistics (e.g. dropout rates, census figures on the education level of the local population, or the number of persons receiving public assistance) and other evidence, (statements from local officials, State Legislature requests, or community college reports) detailing the need for the literacy program in the particular community or geographic region of the grant applicant.

9) A statement of the instructional, promotional and training methods to be used by the grant applicant to meet its stated goals and objectives.

10) A statement of the grant applicant's plans to coordinate its effort with other community groups providing similar or related services and to cooperate with other community groups, including

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education groups, volunteer organizations, governmental bodies, private business, and library organizations and a listing of participating agencies.

- 11) A statement detailing plans to evaluate project objectives and program accomplishments by the grant applicant, including statistical data and how they are gathered and by whom and when.
- 12) A statement as to the continuation of the literacy program without further grants.
- 13) A list of all organizations which are participating agencies in the literacy program project proposed by the grant applicant including signatures of organization representatives.
- 14) The budget for the literacy project, setting forth the personnel costs, fringe benefits, (e.g. retirement benefits and health insurance) travel costs, equipment purchases, supplies, contractual services, and instructional materials, and any other expense necessary to operate the literacy program proposed in the grant application.
- 15) A statement as to the time schedule for the completion of project objectives of the literacy program within the grant year.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.130 Review of Grant Applications

a) The LAB shall review all grant applications which are designed to deliver direct instructional service in literacy to adult students, provide support services to literacy projects providing direct instruction in literacy to adult students, or to provide training, coordination and management of volunteers who will deliver or assist in delivering direct instruction in literacy to adult students, or any combination of one or more of these objectives.

b) The LAB will use the following selection criteria:

- 1) Whether the need for literacy services in the community is demonstrated and how the applicant has addressed the need.
- 2) Whether the extent of cooperation and coordination by the grant applicant of its program with similar programs provided by other organizations in the community is clearly stated.
- 3) Whether the plan of operation contains a specific statement of project goals and objectives, the methods used to achieve these goals and objectives, the number of students to be served, and the number of administrative and instructional personnel necessary to serve the targeted student population.

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- 4) Whether the proposed budget is reasonable in view of the proposed goals of the project, and the budget is adequate to support the project. *For example, additional staff and administrative expenses should not exceed 80%, administrative expenses should not exceed 40%, and equipment purchases should not exceed 40% of the proposed budget.*
- 5) Whether the proposed project contains evaluation methods and procedures which will produce quantifiable data regarding pre- and post-testing of students to evaluate student progress, record-keeping procedures for students, and volunteer participation.
- 6) Whether the persons managing the project have experience, training or education to combat illiteracy, and how much time will be spent by these managers on the project, including at least a bachelor's degree and prior experience in the field of education or management.
- 7) What plans are presented in the grant application to continue the project after the grant funds have been expended.

c) The criteria listed in subsection (b) of this Section will be evaluated and assigned point value by the LAB, as follows: ~~poor # 1 point, fair # 2 points, good # 3 points, very good # 4 points, excellent # 5 points.~~ The highest priority and point value will be assigned to subsections (b)(2), (b)(3), and (b)(5) ~~which will have point values of ten each.~~ Subsections (b)(1), (b)(4), (b)(6), and (b)(7) above will have point values of five each.

d) The LAB shall not select any grant application or award any public funds to any grant applicant which:

- 1) Does not certify or state that it will comply with the Illinois Human Rights Act (Ill. Rev. Stat. ~~1988~~ 1991, ch. 68, par. 1-101 et seq.)(15 ILCS 320/1).
- 2) Uses as its staff or management personnel persons who have been convicted of any felonies involving moral turpitude, embezzlement, theft, sexual offense, fraud, and misrepresentation under laws of the United States, Illinois, or any other state, or have been convicted of bribery in violation of Section 10.1 of the Illinois Purchasing Act (Ill. Rev. Stat. ~~1988~~ 1991, ch. 127, par. 132.10-1)(15 ILCS 320/1).
- 3) Has as its managers employees of the Office of the Secretary of State.

- 4) Has been disqualified and had its grant cancelled in previous years for false application statements, failure to adhere to the grant plan as approved by LAB, misappropriation of funds, or any violation of this Part as determined by the Secretary.
- e) The LAB shall not award more than one grant under Part 3040 Subpart A to any one applicant in the same fiscal year.

(Source: Amended at 17 Ill. Reg. , effective)

Section 3040.140
Award Of Grants, Interview Reports, And Final Reports
Recordkeeping

- a) The LAB will make a recommendation to the Secretary of State as to which grant applications shall be approved, and the amount of public funds to be awarded to fund each grant application based upon the criteria in Section 3040.130.
- b) The LAB shall make its recommendations on December 1 for Fiscal Year 1986 and July 1 for Fiscal Year 1987 and thereafter.
- c) The Secretary of State shall make his or her final decision upon each recommendation as soon as possible within 60 days after the recommendation is presented to the Secretary. The Secretary of State shall approve or disapprove the recommendations of the LAB based upon whether the Secretary determines the recommendations to be consistent with the Act and the rules of this Part.
- d) The final approved grant applications and the funding determination shall constitute the Literacy Provider Grant Program, which shall be a public record, as shall be the grant applications, whether approved or not, and shall be subject to disclosure pursuant to the Freedom of Information Act (Ill. Rev. Stat. 1983 1991, ch. 116, pars. 201 et seq.)(15 ILCS 320/1) and the rules of the Secretary of State found at 2 Ill. Adm. Code 551.

- e) Approved grant applicants shall submit to the State Library, Office of the Secretary of State, at least quarterly each fiscal year; an interim financial report.
- 1) The interim A quarterly financial report which shall state the amount of money expended to date in each line item of the approved program budget.
- 2) Failure to submit the required interim financial reports shall be cause for cancellation of the grant. Grant programs shall receive one thirty (30) day notice requesting compliance with this section before the grant shall be cancelled. A quarterly statistical report which shall state at least the numbers of students and volunteers in the program.

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- f) Approved grant applicants shall submit to the State Library, Office of the Secretary of State, at least semi-annually each fiscal year, an interim program progress a semi-annual narrative report, on a schedule established by the State Library. 1) The interim program progress report semi-annual narrative reports shall state, at least:

- A1) The number of students served to the date of the report (with a description of their ages, sex, educational level, and language proficiency),
- B2) Where the students are being taught.
- B3) The total number of volunteers recruited, describing their sex, age, number of training sessions, and the amount of volunteer time expended to date.
- B4) The name of the community coalition formed, if any.
- B5) What public awareness efforts were undertaken by the program to the date of the report.

F1)///What special educational materials were prepared by the program staff

B6) What has been the most successful or positive activity of the project.

M7) What problems, if any, have occurred.

11)///What private or public funds have been generated in the community to help fund the program

B8) To what extent the project goals and objectives have been met to date, and if not, why not.

2)///Failure to submit the required interim program progress report shall be cause for cancellation of the grant. Grant programs shall receive one thirty (30) day notice requesting compliance with this section before the grant shall be cancelled.

- g) A final audit and final report shall be submitted by each grant recipient to the State Library, Office of the Secretary of State, on or before September 1 of each calendar year for the previous Fiscal Year's program.

- h) The decision of the Secretary of State upon any grant application shall be a final decision for the purposes of the Administrative Review Law (Ill. Rev. Stat. 1983 1991, ch. 110, par. 3-101 et seq.) (15 ILCS 320/1).

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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Section 3040.150 Cancellation of Grant

- a) A grant shall be cancelled if:

- 1) Financial, statistical, and interim program progress narrative reports are not submitted as required by Section 3040.140 (e) 12) and (f) 12). Grant programs shall receive one thirty (30) day notice requesting compliance with this Section before the grant shall be cancelled.
 - 2) An audit or the interim financial reports show financial irregularities, such as misappropriation or embezzlements of funds by the grant program operator and/or its employees and staff.
 - 3) The grant program fails to meet its stated goals.
 - 4) The grant program managers are convicted of any felony or misdemeanor.
 - 5) The grant program fails to operate properly and effectively.
 - 6) The previous Fiscal Year's audit, as required by Section 3040.140 (f), is not received by September 1 and the program has a grant under which it is operating in the current Fiscal Year.
- b) Upon cancellation, the Secretary shall send a notice by certified, return receipt requested mail to the grant program, which shall return all unexpended public funds to the Secretary within thirty (30) days of the date of the cancellation notice.

- c) Any public funds not returned shall be the subject of a collection action by the Attorney General of Illinois.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.160 Audit Procedures

- a) On or before September 1 of each year, the literacy grant recipient must conduct an audit of the program and its expenditure of the grant funds. Grant funds shall be accounted for using the modified accrual accounting method. The State Library will add funds to budgets of grant recipients to pay for audit costs. The literacy grant recipient shall select an independent certified public accountant to perform the audit in accordance with the United States General Accounting Office Government Auditing Standards - Standards for Audit of Governmental Organizations, Programs, Activities and Functions (Yellow Book), 1988 revision, no later editions. This document can be obtained through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. A copy of this document is also maintained

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for public inspection at the Illinois State Library, 300 South Second Street, Springfield, Illinois 62701. The results of this audit must be submitted to the State Library, Office of the Secretary of State. Failure to conduct the audit or failure to report the results to the State Library shall result in cancellation of any existing grants. The State Library shall withhold 10% of the grant funds until receipt and approval of the audit.

A grantee who does not comply with audit requirements will be ineligible to apply for receive funds in the next any following fiscal year.

The provisions of this Section will not be applicable to entities that fall under the authority of the Auditor General of Illinois.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.170 Other Requirements

a) Testing

1) Plans for pre-and post-testing of students must be attached to the proposal application. The Slosson Oral Reading Test-Revised (SORT-R) must be used in student testing for interim semi-annual and final reports submitted to the State Library, Office of the Secretary of State. Programs are not encouraged to use additional tests for their own purposes.

2) In the case of English As a Second Language (ESL) projects, professionally accepted tests must be used, such as the Henderson - Moriarty ESL/Literacy Placement (HELP) List; the ESLOA Oral Assessment; the Comprehensive English Language Skills Assessment (CELSA); the Test of English Proficiency Level (TEPL); the Basic English Skills Test (BEST); the Foreign Service Institute Oral Proficiency Interview (FSI) (also known as ILR); the New York State Placement Test (NYS-Place Test) and the Basic Inventory of Natural Language (BINL) within oral interview the oral test, the ESLOA Oral Assessment, the ESL Placement Test (TEPL), and the English Language Skills Assessment (CELSA), and must be described in the proposal. Results must accompany interim semi-annual and final reports.

3) In the case of students who enroll for math assistance only the TABE math test must be used in testing for semi-annual reports submitted to the State Library, Office of the Secretary of State.

b) Grant funds shall be paid to the literacy program in an amount not to exceed 60% of the total grant for the first of three payments. The second shall be made half way through the grant period for the balance amount of the approved grant, minus the 10% holdback amount for the audit required by Section 3040.160.

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c) Equipment

1) Any equipment purchased by a literacy program from grant funds shall be the property of the State Library.

2) Any equipment purchased from grant funds, which equipment is no longer used by the grantee for literacy program purposes, shall be returned to the State Library. The equipment is "transferable property" as defined in Section 1.04 of the State Property Control Act (Ill. Rev. Stat. 1985 1991, ch. 127, par. 133b.1)(15 ILCS 320/1). The equipment shall be disposed of pursuant to the State Property Control Act. (Ill. Rev. Stat. 1985 1991, ch. 127, par. 133b1 et seq.)(15 ILCS 320/1).

d) No literacy grant program shall purchase with grant funds any equipment with excess a value of \$500 without the prior written consent and approval of the State Library. Approval will be granted by the State Library if the grantee demonstrates that the purchase is essential to the program and cannot be funded in any other way.

e) No literacy program shall transfer funds within the approved grant budget in excess of 10% of the budget line item from which the funds are transferred, without the prior written approval of the State Library. Approval will be granted by the State Library when justification is shown for why the transfer is necessary and how it will affect the goals and objectives of the project. Unapproved expenditures in excess of 10% of a budget line will not be paid for by the grant.

f) Costs for purchase of consultant services will not be allowed in the proposal budget unless the specific expertise required is not available at the applicant's agency or the State Library, Office of the Secretary of State. Justification must be provided if consultant services are purchased and a complete description of the work to be performed must also be provided. The proposed consultant must be mutually acceptable to both the grantee and State Library, Office of the Secretary of State, based on the consultant's prior experience and expertise in literacy programs.

g) A literacy grant monitor shall make a minimum of one two site visits to the literacy program during the fiscal year. Additional site visits may be made at the discretion of the Literacy Office. Literacy monitors shall evaluate program effectiveness as directed by the LAB. It shall be the responsibility of the grant monitor to:

1) Review the process of the budget.

2) Review the grant budget and expenditures in the project to date.

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- 3) Verify that the project plan is being implemented according to the proposal approved by the LAB.
- 4) Submit a written report on the progress of the project to the State Library Literacy Office following each site visit.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

SUBPART B: WORKPLACE LITERACY PROGRAM

Section 3040.200 Purpose

- a) The Workplace Literacy Program is part of the Literacy Grant Program established by Section 7.2 of the State Library Act (Ill. Rev. Stat. ~~1980~~ 1991, ch. 128, par. 107.2)(15 ILCS 320/1).
- b) The purpose of the workplace literacy program is to promote working relationships between employers and Illinois adult ~~literacy programs~~ educational providers of all types to reduce adult illiteracy in Illinois through grant awards which will be made to businesses who propose to contract with adult ~~literacy~~ educational providers to do one or more of the following:

- 1) Assess educational skill levels of employees to determine the extent of need for a workplace literacy program for their adult employees who read, write, comprehend, and/or compute below the 10th grade level; or, who have inadequate basic skills, or who are unable to perform their jobs effectively, or who are ineligible for career advancement due to an identified lack of basic skills below 10th grade level.
- 2) Develop plans for implementation of a workplace literacy program for their adult employees who read, write, comprehend, and/or compute below the 10th grade level;
- 3) Implement a workplace literacy program for their adult employees who read, write, comprehend, and/or compute below the 10th grade level;
- 4) Provide support services for a workplace literacy program including training in program management, training in teaching methodologies, diagnostic testing for learning disabilities, referral procedures, and other consulting services directly related to development and implementation of a workplace literacy program.

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- c) Public funds awarded under this grant program must be matched by the applicant with funds at least equal to the amount of public funds awarded. All combined funds must be used for the purpose set forth in the grant application and for which the public funds are awarded.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.210 Definitions

"Adult Employee" means an individual in Illinois who has exceeded the maximum age for compulsory schooling (sixteen), is not currently enrolled in school (Article 26 of The School Code, Ill. Rev. Stat. ~~1980~~ 1991, ch. 122, pars. 26-1 et seq.)(15 ILCS 320/1), and is employed by the business applicant.

"Adult ~~Literacy~~ Educational Provider" means an education agency, association, library, volunteer or community-based organization, or a coalition thereof which currently provides instruction in literacy to persons 16 years or older who read below a tenth (10th) grade level. ~~In the community or district in which it is located.~~

"Application" means the written request for a workplace literacy grant submitted to the Literacy Office, Illinois State Library, Office of the Secretary of State pursuant to this Part. Applications shall be submitted by the legal entity responsible for the disbursement of public funds.

"Association" means any organization incorporated under the General Not-for-Profit Corporation Act of 1986 comprised of members with a common purpose and having a structure in conformity with said Act.

"Business" means a private, legal entity which employs workers and is a corporation, a sole proprietorship, or a partnership.

"Coalition" means a structured cooperative effort between a library system, library or libraries, education agency or agencies, ~~and~~ community-based organization or organizations, and association or associations, or any combination thereof at the local or regional level.

"Community-based Organization" means a private or public not-for-profit organization, including volunteer organizations, located in an Illinois community, which provides services to citizens within that community and the surrounding area.

"Contractual Agency" means the ~~literacy~~ educational provider(s) with whom the business will contract to perform any or all of the services necessary for the development or implementation of a workplace literacy program.

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"Diagnostic Testing" means testing methods which indicate whether an adult employee has visual, auditory, or basic learning disabilities.

"Educational Skills Assessment" means testing methods which measure the approximate grade level of education skills possessed by adult employees including reading, writing, ~~and~~ comprehension, ~~and~~ or computation abilities.

"Employer" means a private business, a government, or any entity employing for work purposes two or more persons not members of the employer's immediate family.

"Fiscal Year" means the fiscal year of the State of Illinois.

"Illiteracy" means the inability to read, write, ~~or~~ comprehend, ~~and~~ or compute above the 9.9 grade level.

"Illiterate Employee" means an adult whose minimal skills in reading, writing, ~~or~~ comprehension, ~~and~~ or computation preclude the individual from functioning in the workplace.

"Instructional Materials" means written materials and computer software programs which are used in teaching adult employees basic reading, writing, ~~and~~ comprehension, ~~and~~ or computation skills or which supplement the teaching of ~~basic reading and comprehension~~ such skills.

"LAB" means the Literacy Advisory Board established by Section 7.2 of the State Library Act (Ill. Rev. Stat. ~~1989~~ 1991, ch. 128, par. 107.2)(15 ILCS 320/1).

"Library" means the main facility for a tax-supported public library within an Illinois library system.

"Literacy" means the ability of an individual to read, write, ~~and~~ comprehend, ~~and~~ or compute above the 9.9 grade level.

"Secretary of State" means the Illinois Secretary of State.

"State Library" means the Illinois State Library, a department of the Illinois Secretary of State established pursuant to the State Library Act (Ill. Rev. Stat. ~~1989~~ 1991, ch. 128, pars. 101 et seq.)(15 ILCS 320/1).

"Workplace Literacy Program" means a structured program which provides direct instructional services in ~~literacy~~ reading, writing, comprehension, ~~and~~ or computation to adult employees.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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Section 3040.220 Application for Grant

- a) A request for a grant shall be submitted to the ~~LAB~~ Literacy Office in writing postmarked no later than April 1~~st~~ for ~~every~~ each fiscal year. Applicants shall use the forms prepared and made available by the Secretary of State for this purpose. Applications not submitted on time or on the required forms shall not be considered for funding by the LAB.
- b) Applications shall be submitted to the Literacy Office, Illinois State Library, 431 South Fourth Street, Springfield, Illinois 62701.
- c) Applications shall be reviewed by the LAB. Awards shall be made on or after July 1~~st~~ for the fiscal year then commencing.
- d) Grants shall not exceed \$10,000 to any one grant applicant.
- e) Applications must be submitted in one (1) original and fourteen (14) copies.
- f) The grant period shall be the fiscal year.
- g) Applications shall include the following information:
 - 1) The name and address of the business submitting the grant application.
 - 2) The name, title, address, and telephone number of the person at the business who will be responsible for administration of the program.
 - 3) The name, address, telephone number, Federal Employer Identification Number (FEIN), and signature of the fiscal officer at the business who will receive any approved grant and be responsible for proper safeguarding of the grant funds. If a government employer does not have a FEIN, then some other identifying number must be given.
 - 4) The term of the workplace literacy program.
 - 5) The total amount of grant money requested for the workplace literacy program.
 - 6) The total amount of funds which the business applicant will contribute to the workplace literacy program as a matching contribution, including personnel, equipment, supplies, instructional materials, and other related expenditures, but not to include overhead costs such as space, heat, lights, and furniture.

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- 7) A Certification of Assurance signed by the Fiscal Officer which indicates that the business applicant has sufficient funds to pay the business matching share of the program cost.
- 8) A brief and explicit statement of the purpose and goals of the workplace literacy program.
- 9) A detailed statement of the plan of operation of the workplace literacy program and the proposed timeline for achieving objectives and goals including the anticipated number of employees who will be involved, and whether the proposed plan will include an educational skills assessment, development of a workplace literacy program, implementation of a workplace literacy program, support services for a workplace literacy program, or all of the above.
- 10) A statement ~~of~~ about the ~~literacy~~ adult educational provider(s) with whom the business applicant will contract to provide services necessary for the successful operation of the workplace literacy program including the name and address of the contracting agency, the name and telephone number of the agency party who will sign the contractual agreement and be responsible for obligations agreed upon in the contract, and a brief description of the agency or organization, specifically its qualifications for providing the agreed upon contractual services.
- 11) A statement outlining where workplace literacy program activities will take place and how often.
- 12) A statement detailing plans to evaluate the workplace literacy program including the types of records which will be kept, the person who will be responsible for maintaining such records, and the person who will be responsible for evaluating the progress and outcome of the workplace literacy program.
- 13) A statement of assurances signed by the Fiscal Agent of the business and the Fiscal Agent of the ~~literacy~~ adult educational provider that the terms of the contract are mutually agreeable and the services described in the contract will be provided.
- 14) A statement of plans for continuation of the workplace literacy program, where needed as determined by the business applicant, after grant funds have been expended.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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Section 3040.230 Review of Grant Applications

- a) The LAB shall review all grant applications which are designed to provide an employee educational skills assessment, or develop plans for, or implement, or provide support services for workplace literacy programs, which will provide instruction in literacy to adult employees over the age of sixteen (16) who have inadequate basic skills and who are currently unable to perform their jobs effectively or are ineligible for career advancement due to an identified lack of basic skills below the 10th grade level.
- b) The LAB will use the following selection criteria:
 - 1) Whether the plan of operation contains a specific statement of program goals and objectives, the methods used to achieve these goals and objectives, the number of employees to be involved, and the number of administrative and instructional personnel necessary to serve the targeted employee population.
 - 2) Whether the proposed budget is reasonable in view of the proposed goals of the project and the budget is adequate to support the project, and whether the business applicant has adequately described how it will match the request for public funds with its own funds.
 - 3) Whether the business applicant has outlined evaluation methods which will produce quantifiable data regarding the results of the employee educational assessment, or the development of plans for a workplace literacy program, or the implementation of a literacy workplace program, or the support services for a workplace literacy program which have been proposed. Quantifiable data should include employees pre- and post-test scores, employee test hours, employee instructional hours, employee release hours, and employee progress as applicable.
 - 4) Whether the ~~literacy~~ adult educational provider with whom the business applicant will contract has experience and expertise in providing the services agreed upon including qualified personnel and the administrative capacity to support that personnel.
 - 5) What plans are presented in the grant application to continue the program after the grant funds have been expended, if the business applicant determines there is a need.
- c) The criteria listed in subsection (b) of this Section will be evaluated and assigned point value as follows: ~~paragraph 1 points; fair # 2 points; good # 3 points; very good # 4 points; excellent # 5 points; equal priority will be given to all submissions (b)(1) = 10 points; (b)(2) = 15 points; (b)(3) = 10 points; (b)(4) = 10 points; (b)(5) = 5 points.~~

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- d) The LAB shall not select any grant application or award any public funds to any grant applicant which:
- 1) Does not certify or state that it will comply with the Illinois Human Rights Act (Ill. Rev. Stat. 1989 1991, ch. 68, par. 1-101 et seq.)(15 ILCS 320/1).
 - 2) Uses as its staff or management personnel persons who have been convicted of any felonies involving moral turpitude, embezzlement, theft, sexual offense, fraud, and misrepresentation under laws of the United States, Illinois, or any other state, or have been convicted of bribery in violation of Section 10.1 of the Illinois Purchasing Act (Ill. Rev. Stat. 1989 1991, ch. 127, par. 132.10-1)(15 ILCS 320/1).
 - 3) Has as its managers employees of the Office of the Secretary of State.
 - 4) Has been disqualified and had its grant cancelled in previous years for false application statements, failure to adhere to the grant plan as approved by LAB, misappropriation of funds, or any violation of this Part as determined by the Secretary.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.240 Award of Grant, Interim Financial Reports, and Final Program Progress Reports

- a) The LAB will make a recommendation to the Secretary of State as to which grant applications shall be approved and the amount of public funds to be awarded to fund each grant application based upon the criteria in Section 3040.230.
- b) The LAB shall make its recommendations on by July 1 for each Fiscal Year.
- c) The Secretary of State shall make his or her final decision upon each recommendation as soon as possible within 60 days after the recommendation is presented to the Secretary. The Secretary of State shall approve or disapprove the recommendations of the Literacy Office based upon whether the Secretary determines the recommendations to be consistent with the State Library Act (Ill. Rev. Stat. 1989 1991, ch. 128, par. 105)(15 ILCS 320/1) and this Part.
- d) The final approved grant application and the funding determination shall constitute the Workplace Literacy Grant Determination, which shall be a public record, as shall be the grant applications, whether approved or not, and shall be subject to disclosure pursuant to the

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Freedom of Information Act (Ill. Rev. Stat. 1989 1991, ch. 116, pars. 201 et seq.)(15 ILCS 320/1) and the rules of the Secretary of State found at 2 Ill. Adm. Code 551.

- e) Approved grant applicants shall submit to the Literacy Office, at least semi-annually, the following reports: quarterly financial reports: midterm and final program progress reports. ~~on interim financial reports and a program progress report.~~
- 1) The interim quarterly financial reports shall state the amount of money expended to date in each line item of the approved program budget and the amount of money expended to date by the business applicant as matching funds.
- 2) The interim midterm and final program progress reports shall state, at least:

- A) For an employee educational assessment, the number of employees tested, the method of testing used, the number of hours spent in testing, the results of that testing, the need for instructional services indicated as a result of that testing, if any, and the plans of the business applicant for addressing that need.
- B) For development of plans for a workplace literacy program, the target number of employees to be served, how this number was determined, where employees will receive instruction, the target number of hours for employee instruction, the method of instruction which will be provided, the amount of release time which will be allowed for employees who receive instruction, if any, and when the workplace literacy program will begin.
- C) For implementation of a workplace literacy program, the number of employees served to the date of the report, the net gain in education level of each employee receiving instruction, pre- and post-test scores of each employee receiving instruction, the number of hours each employee has spent in instruction, and the amount of release time allowed employees who have received instruction.
- D) For support services provided to a workplace literacy program, the type and extent of services rendered, the number of employees served through the support services, and the impact of support services on the workplace literacy program.

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E) For all types of contractual services listed above, what has been the most positive outcome of the services, what problems, if any, have occurred in the delivery of these services, and to what extent the goals and objectives of these services have been met to the date of the report.

3) Failure to submit the required ~~interim~~ reports shall be cause for cancellation of the grant. Grant recipients shall receive one thirty (30) day notice requesting compliance with this Section before the grant shall be cancelled.

f) ~~The~~ final financial and program progress reports shall be submitted by each grant recipient to the Literacy Office on or before ~~September 1~~ July 31 of each calendar year for the previous Fiscal Year's program.

g) The decision of the Secretary of State upon any grant application shall be a final decision for the purpose of the Administrative Review Law (Ill. Rev. Stat. ~~1980~~ 1991, ch. 110, par. 3-101 et seq.) (15 ILCS 320/1).

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 3040.250 Cancellation of Grant

a) A grant shall be cancelled if:

1) Financial and ~~interim~~ program progress reports are not submitted as required by Section 3040.240 (e)(3).

2) The ~~interim~~ quarterly financial report shows financial irregularities, such as misappropriation or embezzlement of funds by the grant program operator and/or its employees and staff.

3) The grant program fails to meet its stated goals.

4) The grant program administrators are convicted of any felony or misdemeanor.

5) The grant program fails to operate properly and effectively.

b) Upon cancellation, the Secretary shall send a notice by certified, return receipt requested mail to the grant program, which shall return all unexpended public funds to the Secretary within thirty (30) days of the date of the cancellation notice.

c) Any public funds not returned shall be the subject of a collection action by the Attorney General of Illinois.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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Section 3040.260 Other Requirements

a) Adult ~~literacy~~ educational providers contracted with by the business shall be subject to the terms, conditions, and requirements of Subparts A and B of this Part.

b) Adult literacy assessment and/or instruction provided under Subpart B of this Part must be given on business applicant's premises unless exceptional circumstances prohibit this, such as lack of space for instruction or inappropriate facilities. In such instances, assessment and/or instruction in literacy must take place ~~within a~~ ~~10-minute radius of the business~~ at a site approved by the Literacy Office.

c) A literacy grant monitor shall make ~~two~~ a minimum of one site visit to the workplace literacy program during the fiscal year. ~~With additional visits as requested by either the employer or the Literacy Office.~~ Additional site visits may be made at the request of the approved grant applicant or the Literacy Office. It shall be the responsibility of the grant monitor to:

1) Review the progress of the project.

2) Review the grant budget and expenditures in the project to date.

3) Verify that the project plan is being implemented according to the proposal approved by the LAB.

4) Submit a written report on the progress of the project to the State Library Literacy Office following each site visit.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

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1) Heading of Part: Control of Outdoor Advertising Adjacent to Primary and Interstate Highways

2) Code Citation: 92 Ill. Adm. Code 522

3) Section Numbers:

522.20	Amend
522.30	Amend
522.50	Amend
522.80	Amend
522.120	Amend
522.130	Repeal, New Section
522.150	Amend
522.200	Amend
522.210	Amend
522.Illustration J	Added

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 121, pars. 4-201.1, 9-112.1, 9-112.2, 501-508, 510 and 514.01 as amended by P.A. 87-1205, effective July 1, 1993 and Ill. Rev. Stat. 1991, ch. 15 1/2, par. 48.1 et seq. (605 ILCS 5/4-201.1, 5/9-112.1, 5/9-112.2, 225 ILCS 440/1-440/8, 440/10, and 440/14.01 as amended by P.A. 87-1205, effective July 1, 1993; and 620 ILCS 25/1 et seq.)

5) A complete description of the subjects and issues involved: By this rulemaking, the Department proposes to implement the necessary procedures to comply with Public Act 87-1205, effective July 1, 1993. The Public Act changes the size requirements for signs in counties under 2,000,000 population and changes the spacing requirements for signs along primary highways. P.A. 87-1205 also changes the amount of the application fee. The changes in the Public Act were introduced and supported by the outdoor advertising industry without input from the Department.

This Part provides requirements for registration, application, and revocation of permits, as well as for the erection and maintenance of signs along the interstate and primary highways in Illinois. In addition, it contains requirements for the size, spacing, and other standards for outdoor advertising signs.

This rulemaking includes several new definitions, revisions to several existing definitions, changes in spacing requirements for signs on primary highways, and revisions to the application fees. Additionally, this rulemaking clarifies that outdoor advertising signs must comply with airport hazard zoning regulations promulgated by the Department. Finally, the Department is substantially changing the hearing procedures so that, instead of requiring the use of a hearing officer, a decision regarding a problem can be made by the Director of Highways or his designee.

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A new illustration has been added entitled, "Public Airport Hazard Zoning in Illinois", and, statutory citations contained in this rulemaking have been updated to include cites to the Illinois Compiled Statutes in accordance with P.A. 87-1005, effective January 1, 1993.

6) Will this proposed rulemaking replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking contains no requirements for local governments to initiate any actions.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. David E. Schinneer, Chief
Bureau of Land Acquisition
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 220
Springfield, Illinois 62764
(217) 782-6243

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: All businesses erecting outdoor advertising signs will be affected by this rulemaking. Compliance with the provisions of this rulemaking will increase the cost of obtaining a permit to erect a sign along the interstate and primary highways in Illinois. This fee increase was proposed by the outdoor advertising industry. Businesses outside of Cook County will not be able to erect as large a sign as they previously could. Businesses statewide will have to observe new spacing requirements along primary highways.

B) Reporting, bookkeeping or other procedures required for compliance: Those businesses wishing to erect an outdoor advertising sign along

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an interstate or primary highway are and will be required to obtain a permit from the Department.

- C) Types of professional skills necessary for compliance: Those businesses wishing to erect an outdoor advertising sign in excess of 150 squares feet along an interstate or primary highway in the counties of Cook, DuPage, Lake, McHenry, Kane, and Will are and will be required to submit a site drawing prepared or approved by a land surveyor licensed by the State of Illinois.

The full text of the Proposed Amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 522
CONTROL OF OUTDOOR ADVERTISING
ADJACENT TO PRIMARY AND INTERSTATE HIGHWAYS

SUBPART A: GENERAL PROVISIONS

Section
522.10
522.20

Purpose
Definitions

SUBPART B: PERMIT APPLICATION AND REGISTRATION
PROCEDURES AND REQUIREMENTS

Section
522.30
522.40
522.50
522.60
522.70
522.80
522.90
522.100

Signs Requiring Permits and Registrations
Place of Filing
Permit Application Contents
Receipt of Application
Approval of Application
Denial of Application
Renewal of Permits
Registration of Existing Signs

SUBPART C: REVOCATION OF PERMITS

Section
522.110
522.120
522.130
522.140

Notice of Intent to Revoke
Reply of Permittee
~~Hearing~~ Review Procedures
Issuance of the "30 Day Letter"

SUBPART D: STANDARDS FOR SIGNS

Section
522.150
522.160
522.170
522.180

522.190
522.200
522.210

Signs that may not be Erected or Maintained
Standards for Official Notices
Standards for Directional Signs
Standards for Signs Advertising the Sale or Lease of Property on which they are Located
Standards for On Premise Signs
Standards for Signs in Business Areas
Standards for Signs Providing Information Relative to Lodging, Food, Outdoor Recreational Facilities or Automotive Service Facilities

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SUBPART E: SIGNS WHICH MAY BE ERECTED WITHOUT A PERMIT

Section
522.220 Department Notification

SUBPART F: MISCELLANEOUS PROVISIONS

Section
522.230 Multiple Signs
522.240 Signs Facing Two or More Highways

Illustration A Expressway
 Illustration B Unzoned Commercial or Industrial Area
 Illustration C Interchange Spacing
 Illustration D Spacing Measurement Along Pavement
 Illustration E Spacing Measurement At Right Angle
 Illustration F Spacing Measurement On Same Line
 Illustration G Spacing Measurement Along Curves
 Illustration H Map of Highway Districts
 Illustration I Control Along Intersecting Highways
 Illustration J Public Airports

AUTHORITY: Implementing Sections 9-112.1 and 9-112.2 of the Illinois Highway Code (Ill. Rev. Stat. 1967-91, ch. 121, pars. 9-112.1 and 9-112.2) (605 ILCS 5/9-112.1 and 5/9-112.2) and Sections 1 through 8 and 10 of the Highway Advertising Control Act of 1971 (Ill. Rev. Stat. 1967-91, ch. 121, pars. 501-508 and 510) (225 ILCS 440/1-440/8 and 440/10) and authorized by Section 4-201.1 of the Illinois Highway Code (Ill. Rev. Stat. 1967-91, ch. 121, par. 4-201.1) (605 ILCS 5/4-201.1) and Section 14.01 of the Highway Advertising Control Act of 1971 (Ill. Rev. Stat. 1967-91, ch. 121, par. 514.01 as amended by P.A. 87-1205, effective July 1, 1993) (225 ILCS 440/14.01, as amended by P.A. 87-1205, effective July 1, 1993); Implementing Section 1 and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15 1/2, par. 48.1 et seq.) (620 ILCS 25/1 et seq.)

SOURCE: Amended August 23, 1976; codified at 7 Ill. Reg. 12887; Part repealed, new Part adopted at 12 Ill. Reg. 16163, effective September 27, 1988; amended at ____ Ill. Reg. ____, effective ____.

NOTE: Capitalization denotes statutory language.

Section 522.20 Definitions

"Act" means the Highway Advertising Control Act of 1971 (Ill. Rev. Stat. 1991, ch. 121, par. 501 et seq.) (225 ILCS 440/1 et seq.).

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"Air mile" means a distance of one mile as measured horizontally along a straight line between the sign and activity advertised.

"BUSINESS AREA" MEANS ANY PART OF AN AREA ADJACENT TO AND WITHIN SIX HUNDRED SIXTY FEET OF THE RIGHT-OF-WAY WHICH IS AT ANY TIME ZONED FOR BUSINESS, COMMERCIAL OR INDUSTRIAL ACTIVITIES UNDER THE AUTHORITY OF ANY LAW OF THIS STATE; OR NOT SO ZONED, BUT WHICH CONSTITUTES AN UNZONED COMMERCIAL OR INDUSTRIAL AREA. HOWEVER, AS TO SIGNS ALONG INTERSTATE HIGHWAYS, THE TERM "BUSINESS AREA" INCLUDES ONLY AREAS WHICH ARE WITHIN INCORPORATED LIMITS OF ANY CITY, VILLAGE, OR INCORPORATED TOWN, AS SUCH LIMITS EXISTED ON SEPTEMBER 21, 1959, AND WHICH ARE ZONED FOR BUSINESS, INDUSTRIAL OR COMMERCIAL USE, OR TO PORTIONS OF INTERSTATE HIGHWAYS WHICH TRAVERSE OTHER AREAS WHERE THE LAND USE, AS OF SEPTEMBER 21, 1959, WAS CLEARLY ESTABLISHED BY STATE LAW AS BUSINESS, INDUSTRIAL OR COMMERCIAL (Section 440/3.12 of the Act, Ill. Rev. Stat. 1967-91, ch. 121, par. 503.12) (225 ILCS 440/3.12). Areas which were not specifically zoned for business, commercial or industrial use as of September 21, 1959 and were outside corporate limits on that date will not be considered business areas along Interstate highways.

"Code" means the Illinois Highway Code (Ill. Rev. Stat. 1967-91, ch. 121, par. 1-101 et seq.) (605 ILCS 5/101 et seq.).

"COMMERCIAL OR INDUSTRIAL ACTIVITIES," as used in the definition of "business area" and "unzoned commercial or industrial area," MEANS THOSE ACTIVITIES LOCATED WITHIN SIX HUNDRED SIXTY FEET OF THE NEAREST EDGE OF THE HIGHWAY RIGHT-OF-WAY GENERALLY RECOGNIZED AS COMMERCIAL OR INDUSTRIAL BY ZONING AUTHORITIES IN THIS STATE, such as land use devoted to commerce, industry, trade, manufacturing, highway service, highway business, warehouses, offices or similar uses, BUT for the purpose of determining unzoned commercial and industrial areas DOES NOT INCLUDE THE FOLLOWING:

AGRICULTURAL, FORESTRY, RANGING, GRAZING AND FARMING ACTIVITIES, INCLUDING WAYSIDE FRESH PRODUCE STANDS AND GRAIN STORAGE BINS;

RAILROAD TRACKS AND MINOR SIDINGS;

TRANSIENT OR TEMPORARY ACTIVITIES NOT INVOLVING PERMANENT BUILDINGS OR STRUCTURES;

OUTDOOR ADVERTISING STRUCTURES;

ACTIVITIES NOT VISIBLE FROM A MAIN-TRAVELED WAY;

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ACTIVITIES CONDUCTED IN A BUILDING PRINCIPALLY USED AS A RESIDENCE (if the ground floor of the building is more than 50% residence)(Section 440/3.10 of the Act).

"Damaged signs" means signs which require more than fifty percent replacement of the uprights, in whole or in part.

"Department" means the Illinois Department of Transportation.

"District" means any one of the District offices of the Department's Division of Highways (see Illustration H).

"Directional signs" means signs containing directional information about public places owned or operated by Federal, State or local governments or their agencies; publicly or privately owned natural phenomena; historic, educational, cultural, scientific and religious sites; areas of natural or scenic beauty; or areas naturally suited for outdoor recreation which are deemed to be in the interest of the traveling public.

"ERECT" MEANS TO CONSTRUCT, BUILD, RAISE, ASSEMBLE, PLACE, AFFIX, ATTACH, CREATE, PAINT, DRAW OR IN ANY OTHER WAY BRING INTO BEING OR ESTABLISH; BUT DOES NOT INCLUDE ANY OF THE FOREGOING ACTIVITIES WHEN PERFORMED AS AN INCIDENT TO THE CHANGE OF ADVERTISING MESSAGE OR NORMAL MAINTENANCE OR REPAIR OF A SIGN OR SIGN STRUCTURE (Section 440/3.08 of the Act). Replacing more than fifty percent of the uprights, in whole or in part, or extending the height above ground, or similar activities which substantially change a sign such as anything which makes a sign more valuable; adding lighting, or making the sign bigger are examples, are not normal maintenance or repair.

"EXPRESSWAY" MEANS A PRIMARY HIGHWAY CONSTRUCTED EITHER AS A FREEWAY OR TOLLWAY WHICH HAS COMPLETE CONTROL OF ACCESS (see Illustration A) (Section 440/3.04 of the Act).

"Federal, State, or local law" means a Federal or State constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to Federal or State constitution or statute.

"Illegal Signs" means signs not in compliance with this Part.

"Interchange" means a system of interconnecting roadways in conjunction with one or more grade separations, providing for the movement of traffic between two or more roadways on different levels.

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"INTERSTATE HIGHWAY" MEANS ANY HIGHWAY, INCLUDING A TOLLWAY, DESIGNATED BY THE DEPARTMENT AND APPROVED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION AS A PART OF THE NATIONAL SYSTEM OF

INTERSTATE AND DEFENSE HIGHWAYS. A HIGHWAY BECOMES A PART OF THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS UPON THE DATE OF APPROVAL OF THE ROUTE LOCATION DECISION AND THE APPROVAL OF THE ADDITION OF THE HIGHWAY TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS BY THE GOVERNOR AND THE UNITED STATES DEPARTMENT OF TRANSPORTATION (Section 440/3.02 of the Act).

"MAIN-TRAVELED WAY" MEANS THE TRAVELED WAY (i.e. pavement) OF A HIGHWAY ON WHICH THROUGH TRAFFIC IS CARRIED. IN THE CASE OF A DIVIDED HIGHWAY, THE TRAVELED WAY OF EACH OF THE SEPARATED ROADWAYS FOR TRAFFIC IN OPPOSITE DIRECTIONS IS A MAIN-TRAVELED WAY. IT DOES NOT INCLUDE SUCH FACILITIES AS FRONTAGE ROADS, TURNING ROADWAYS, OR PARKING AREAS (Section 440/3.05 of the Act).

"MAINTAIN" MEANS TO ALLOW TO EXIST (Section 440/3.06 of the Act) and includes the periodic changing of advertising messages, customary maintenance and repair of signs and sign structures.

"MUNICIPALITY" MEANS A CITY, VILLAGE, OR INCORPORATED TOWN IN THE STATE OF ILLINOIS, BUT, "MUNICIPAL" OR "MUNICIPALITY" DOES NOT INCLUDE A TOWNSHIP, TOWN WHEN USED AS THE EQUIVALENT OF A TOWNSHIP, INCORPORATED TOWN WHICH HAS SUPERSEDED A CIVIL TOWNSHIP, COUNTY, SCHOOL DISTRICT, PARK DISTRICT, SANITARY DISTRICT OR ANY OTHER SIMILAR GOVERNMENTAL DISTRICT (Section 440/3.09 of the Act).

Non-conforming sign means - Registered signs lawfully in existence and adjacent to an interstate or federal aid primary highway prior to the effective date of the Highway Advertising Control Act.

(July 1, 1972)(Red Tag Signs). Non-conforming signs also means signs that are lawfully in existence and adjacent to other highways that subsequently become under the control of the Highway Advertising Control Act. These signs are located in areas that do not comply with the provisions of the Act, but cannot be removed until the state pays just compensation.

"Official notices" means service club and religious notices and public service signs.

"Official signs" means signs erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State or local law for the purposes of carrying out an official duty or responsibility.

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Historical markers authorized by State law and erected by State or local government agencies or non-profit historical societies are considered official signs.

"On premise signs" means those signs which advertise activities conducted on the property on which they are located. Variety seed signs, fertilizer signs, and other agricultural product signs are not on premise signs unless at least fifty percent of the sign face is devoted to identification of the farm owner or operator. A sale or lease sign which also advertises any product or service not located upon and unrelated to the business of selling or leasing the land on which the sign is located is not an on premise sign.

"Parkland" means any publicly owned land which is designed or used as a public park, recreation area, conservation area, wildlife or waterfowl refuge or historic site.

"PRIMARY HIGHWAY" MEANS ANY HIGHWAY, OTHER THAN AN INTERSTATE HIGHWAY in existence on June 1, 1991, DESIGNATED BY THE DEPARTMENT AND APPROVED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION AS A PART OF THE FEDERAL-AID PRIMARY SYSTEM. ~~A HIGHWAY BECOMES A PRIMARY HIGHWAY UPON THE DATE OF APPROVAL OF THE ROUTE LOCATION DECISION AND THE APPROVAL OF THE ADDITION OF THE HIGHWAY TO THE PRIMARY HIGHWAY SYSTEM BY THE GOVERNOR AND THE UNITED STATES DEPARTMENT OF TRANSPORTATION (Section 440/3.03 of the Act).~~

"Public utility signs" means warning signs, informational signs, notices or markers which are erected and maintained by publicly or privately owned public utilities as essential to their operations.

"Responsible Local Officials" means in urbanized areas, principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor; or in urban areas not within any urbanized area, principal elected officials of general purpose local governments.

"Rest area" means an area or site established and maintained within or adjacent to the highway right of way by or under public supervision or control for the convenience of the traveling public.

"Right-of-way" includes all property, whether it is presently being used for highway purposes or not, either under the jurisdiction of the Department or owned in fee by the State of Illinois or dedicated to the People of the State of Illinois for highway purposes, for which the jurisdiction, maintenance, administration, engineering or improvement of any highway situated thereon has been contracted by the Department to any other highway authority pursuant to Section 5/4-409 of the Highway Code.

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"Scenic area" means any area of particular scenic beauty or historical significance as determined by Federal, State or local officials having jurisdiction over said areas, and includes interests in land which have been acquired for the restoration, preservation and enhancement of scenic beauty.

"Secretary" means the Secretary of the Department.

"Service club and religious notices" means signs and notices relating to meetings of not for profit service clubs and charitable associations, or religious services.

"SIGN" MEANS ANY OUTDOOR SIGN, DISPLAY, DEVICE, NOTICE, FIGURE PAINTING, DRAWING, MESSAGE, PLACARD, POSTER, BILLBOARD, OR OTHER THING, WHICH IS DESIGNATED, INTENDED OR USED TO ADVERTISE OR INFORM, AND OF WHICH ANY PART OF THE EXISTING OR INTENDED ADVERTISING OR INFORMATIVE CONTENTS IS OR WILL BE VISIBLE FROM ANY PLACE ON THE MAIN-TRAVELED WAY OF ANY PORTION OF AN INTERSTATE OR PRIMARY HIGHWAY AND WHICH IS WITHIN SIX HUNDRED SIXTY FEET OF THE NEAREST EDGE OF THE RIGHT-OF-WAY OF SUCH HIGHWAY (Section 440/3.07 of the Act).

"SIGN" ALSO MEANS ANY SIGN DESCRIBED ABOVE WHICH IS MORE THAN SIX HUNDRED SIXTY FEET FROM THE NEAREST EDGE OF SUCH HIGHWAY RIGHT-OF-WAY, OUTSIDE OF AN URBAN AREA, VISIBLE FROM ANY PLACE ON THE MAIN-TRAVELED WAY OF ANY PORTION OF SUCH HIGHWAY AND ERRECTED WITH THE PURPOSE OF ITS MESSAGE BEING READ FROM SUCH MAIN-TRAVELED WAY (Section 440/3.07 of the Act).

"Sign Structure" means the assembled components which make up an outdoor advertising display, including but not limited to uprights, supports, display area and trim.

"UNZONED COMMERCIAL OR INDUSTRIAL AREA" MEANS ANY AREA ADJACENT TO THE RIGHT-OF-WAY OF A PRIMARY HIGHWAY OR AN INTERSTATE HIGHWAY FOR PURPOSES OF SECTION 522.210, NOT ZONED BY ANY COUNTY OR MUNICIPALITY AND WHICH LIES WITHIN SIX HUNDRED FEET OF ANY COMMERCIAL OR INDUSTRIAL ACTIVITY. ALL MEASUREMENTS SHALL BE FROM THE OUTER EDGES OF THE REGULARLY USED BUILDINGS, PARKING LOTS, STORAGE OR PROCESSING AREAS OF THE ACTIVITIES, NOT FROM THE PROPERTY LINES OF THE ACTIVITIES, AND SHALL BE ALONG OR PARALLEL TO THE EDGE OR PAVEMENT OF THE HIGHWAY. ON PRIMARY HIGHWAYS OTHER THAN EXPRESSWAYS, but not along Interstate highways for purposes of Section 522.210, WHERE THERE IS AN UNZONED COMMERCIAL OR INDUSTRIAL AREA ON ONE SIDE OF THE ROAD IN ACCORDANCE WITH THE PRECEDING, THE UNZONED COMMERCIAL OR INDUSTRIAL AREA SHALL ALSO INCLUDE THOSE LANDS DIRECTLY OPPOSITE ON THE OTHER SIDE OF THE

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HIGHWAY TO THE EXTENT OF THE SAME DIMENSIONS EXCEPT WHERE SUCH LANDS ARE PUBLICLY OWNED OR CONTROLLED FOR SCENIC OR RECREATIONAL PURPOSES (see Illustration B) (Section 440/3.11 of the Act).

"URBAN AREA" MEANS AN URBANIZED AREA OR, IN THE CASE OF AN URBANIZED AREA ENCOMPASSING MORE THAN ONE STATE, THAT PART OF THE URBANIZED AREA IN EACH SUCH STATE, OR AN URBAN PLACE AS DESIGNATED BY THE BUREAU OF THE CENSUS OF THE UNITED STATES HAVING A POPULATION OF 5,000 OR MORE AND NOT WITHIN ANY URBANIZED AREA, WITHIN BOUNDARIES TO BE FIXED BY RESPONSIBLE STATE AND LOCAL OFFICIALS IN COOPERATION WITH EACH OTHER, SUBJECT TO APPROVAL BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION. SUCH BOUNDARIES SHALL, AS A MINIMUM, ENCOMPASS THE ENTIRE URBAN PLACE DESIGNATED BY THE BUREAU OF THE CENSUS (Section 440/3.14 of the Act).

"VISIBLE" MEANS CAPABLE OF BEING SEEN (WHETHER OR NOT LEGIBLE) WITHOUT VISUAL AID BY PERSONS OF NORMAL VISUAL ACUITY (Section 440/3.13 of the Act).

(SOURCE: Amended at Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATION AND
REGISTRATION PROCEDURES AND REQUIREMENTS

Section 522.30 Signs Requiring Permits and Registrations

The following types of signs may be erected and maintained only after a permit or registration has been issued by the Department.

- a) Signs along Interstate highways that advertise the sale or lease of property on which they are located~~;~~
- b) On premise signs located along Interstate highways~~;~~
- c) Signs located along ~~primary or~~ Interstate highways that provide information relative to lodging, food, outdoor recreational facilities or automotive service facilities~~;~~
- d) Signs in business areas other than directional signs, official signs, official notices, public utility signs, or those non-business area signs described in subsections (a), (b), and (c) above~~;~~
- e) Any nonconforming sign listed in subsections (a) (b) which, after receiving a permit or registration, becomes a damaged sign and the owner intends to repair the sign. These signs shall require new permits but shall not require payment of a fee~~;~~

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- f) Any sign listed in subsections (a)-(d) which, after receiving a permit or a registration, is enlarged or extended by the sign owner. These signs shall require new permits and payment of the application fee.

(SOURCE: Amended at Ill. Reg. _____, effective _____)

Section 522.50 Permit Application Contents

- a) The permit application shall be a form prescribed by the Department. The application shall require the applicant to provide specific information necessary for the District to determine whether a permit should be issued.
- b) The following additional documentation shall be attached to the permit application:
 - 1) Verification as to the zoning classification for the proposed sign location. For proposed signs along Interstate highways, the documentation shall show whether the site lies within incorporated limits as they existed on September 21, 1959, and, if not, the land use as it was zoned on September 21, 1959. If the site was not zoned on September 21, 1959, or is not zoned now, this shall be stated.
 - A) Verification of zoning classification will consist of an ordinance, certification by the current zoning official or any other documentation which shows the zoning classification.
 - B) Zoning must be comprehensive. Signs will not be permitted on spot zoned land on which the only possible commercial or industrial use is outdoor advertising.
- 2) A site drawing of the proposed location. The site drawing for business area signs other than on premise signs and signs that advertise the sale or lease of property on which they are located, shall contain at least the following information for signs to be erected outside of the counties of Cook, DuPage, Lake, McHenry, Kane, and Will:
 - A) The exact location of the proposed sign.
 - B) The distance as measured along the edge of the highway pavement between the proposed sign and the nearest existing sign(s) other than on premise signs and signs

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that advertise the sale or lease of property on which they are located, whether illegal or legal as long as the sign(s) is visible from any place on the main traveled way of the highway regardless of which highway the sign's message is primarily intended to face and, in urban areas, is within 660 feet of the nearest edge of the highway right-of-way. Measured distances between the proposed sign and the nearest existing sign shall be as prescribed in the table in subsection (b)(3).

- C) The distance between the proposed sign and the nearest edge of the highway right-of-way.
- D) For signs located along interstate highways or expressways outside incorporated municipalities, the distance between the proposed sign and the beginning or ending of pavement widening for any interchange within six hundred feet.

- 3) For signs with ~~facings~~ display area in excess of one hundred fifty square feet located in the counties of Cook, DuPage, Lake, McHenry, Kane and Will, the site drawing shall contain all of the information required in subsection (b)(2) above, and in addition shall be prepared or approved by a land surveyor ~~registered with~~ licensed by the State of Illinois and shall show measured distances between the proposed sign and the nearest existing sign according to the following table:

Type of Highway	Distance (feet)
Interstate	600
Expressway	600
Primary (Unincorporated Area)	400 600
Primary (Incorporated Area)	200 400

- 4) For signs with ~~facings~~ display area in excess of one hundred fifty square feet, a current title commitment or other evidence of title showing ownership of the proposed site.
- 5) Whenever the applicant does not own the proposed site, a fully executed site lease or other proof of consent to erect and maintain a sign on the site. Leases shall contain all riders. Rents need not be shown. All changes made to the lease or consent which are related to the requirements of this Part shall also be submitted to the District. Whenever the lease or consent is not signed by the property owner, proof of authority shall also be provided.

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- 6) For on-premise signs, a plat or survey shall be provided showing the location of the sign, the location of the activity being advertised, and the distance to the nearest edge of the highway right of way.
- 7) For signs that advertise the sale or lease of property on which they are located, a site drawing shall be provided showing the location of the sign and the distance to the nearest edge of the highway right of way.
- 8) For signs described by Section 522.210, the distance in air miles between the proposed sign and the activity advertised.
- 9) A copy of written notice by the applicant to the municipality where the sign is to be located, or to the county where the sign is to be located in an unincorporated area, of the fact that an application has been filed with the Department. A copy of the completed application form shall be forwarded to the municipality or county.

- 10) Remittance of the ~~permit~~ application fee by check or money order ~~in the amount of \$5.00~~ payable to the Treasurer of the State of Illinois. THE APPLICATION FEE SHALL BE AS FOLLOWS:

- A) FOR SIGNS OF LESS THAN 150 SQUARE FEET, \$50;
 B) FOR SIGNS OF AT LEAST 150 BUT LESS THAN 300 SQUARE FEET, \$100;
 C) FOR SIGNS OF 300 OR MORE SQUARE FEET, \$200 (Section 440/8 of the Highway Advertising Control Act of 1971) (Ill. Rev. Stat. 1991, ch. 121, par. 508, as amended by P.A. 87-1205, effective July 1, 1993) (225 ILCS 440/8).

The square feet shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire display area. If one side of the sign provides for more display area than another, the measurements will be made on the larger side.

- c) The applicant shall certify that all of the information provided is true and accurate.

(SOURCE: Amended at _____ Ill. Reg., effective _____)

Section 522.80 Denial of Application

- a) If a review of the application or a site investigation reveals that the permit application is incomplete, contains incorrect

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information or is not in compliance with the requirements of the Act or this Part, then the District shall notify the applicant in writing by certified mail of its intent to deny the permit application and state the reasons for that action. The notification shall inform the applicant that he/she has thirty calendar days from the date of receipt of the notification to challenge the intent to deny or to correct the deficiencies noted. No time extensions will be permitted. The challenge shall be made in writing, state the position of the applicant, the facts in support of that position and shall contain any relevant documentation. ~~he does to provide~~ The challenge must be received in the District office within the thirty day period. The District will review the challenge and shall either approve or deny the application based on the requirements of this Part. No appeal may be taken from the District's decision on the challenged application. The applicant's priority will be retained pending the District's final decision.

- b) If, after consideration of the challenge, the District approves the application, the procedures in Section 522.70 shall apply. If, after consideration of the challenge, the District denies the application, it shall be marked "denied" on its face and the reason for denial stated on the application. The District shall notify the permittee of the denial by sending ~~him~~ a copy of the denied application and refunding the ~~permit~~ application fee.

- c) The permittee shall be deemed to have waived ~~his~~ the right to challenge if the challenge is not filed in the time specified ~~he~~ ~~fails to timely file his challenge~~ in subsection (a) above. In such case, the application will be denied and be processed in the same manner as an application denied with a challenge.

(SOURCE: Amended at ____ Ill. Reg. ____, effective ____)

Section 522.120 Reply of Permittee

- a) The Reply shall be made to the appropriate District in writing and received at that office within the thirty day period. No time extensions will be permitted. The Reply shall specifically state one of the following:

- 1) That the sign has been removed. In such case, evidence of the removal (an affidavit or photograph) shall be submitted with the Reply.
- 2) That the problem cited in the Notice of Intent to Revoke has been corrected or that measures to correct the problem will

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be undertaken in the manner and within the times set forth in the Reply. Evidence of the correction (an affidavit or photograph) shall be submitted with the Reply.

- 3) That a dispute exists and a ~~hearing~~ review is requested.
- b) If the permittee fails to reply or to reply within the thirty day period, the Notice shall constitute the "30 day letter" as provided for in Section 522.140 and shall have the same force and effect as same.
- c) If the evidence submitted with the Reply shows that the sign has been removed, then the District will notify the permittee that the permit is revoked.
- d) If the evidence shows that the permittee has corrected the problem, the District will so notify the permittee and the Notice shall be considered null and void.
- e) If the District finds that the evidence submitted with the Reply fails to show that the sign has been removed or that no measures have been taken or proposed to correct the problem, and no ~~hearing~~ review is requested; then the District will issue a "30 day letter" in accordance with Section 522.140.

(SOURCE: Amended at ____ Ill. Reg. ____, effective ____)

~~Section 522.130 Hearing Procedures~~~~a) Proceedings Before the Hearing Officer~~

- ~~1) In response to the timely receipt of the Reply requesting a hearing or the District's request for a hearing, the Chief Counsel of the Department shall arrange for a hearing officer. The Hearing Officer shall preside over the hearing, rule on evidence, objections and motions, accept testimony, and other evidence into the record and shall issue an opinion with his findings based on the evidence presented all in compliance with the contested case procedures in Sections 10-16 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, pars. 1010-1016).~~

- ~~2) The Hearing Officer shall set a hearing date not less than fifteen or more than sixty days after his appointment. The Hearing Officer shall notify the permittee in writing of the time, date and location of the hearing.~~

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- ~~3)- All hearings shall be stenographically recorded and a transcript prepared by a certified court reporter at the permittee's expense.~~
- ~~4)- The permittee may appear personally or by representative at the hearing and present evidence in his behalf or he may waive his right to appear personally or by representative at the hearing and request that the Hearing Officer make his decision after considering written submittals.~~
- ~~5)- Failure of the permittee or his representative to personally appear at the hearing without giving notice shall result in a ruling by the Hearing Officer that the allegation or allegations as set forth in the Notice of Intent to Revoke Permit are true, correct and proven.~~
- ~~6)- The Hearing Officer may dispense with the hearing if no material fact is in dispute and render the/its decision based on written briefs.~~
- ~~67)- The Hearing Officer shall render his decision as expeditiously as possible and thereafter promptly notify the permittee and the District in writing by certified mail of the decision. The decision of the Hearing Officer shall be final and binding unless appealed.~~
- ~~b)- Appeal of Decision of Hearing Officer~~
 - ~~1)- The decision of the Hearing Officer may be appealed by either the District or the permittee within twenty days of receipt of the decision of the Hearing Officer.~~
 - ~~2)- The appeal shall be made in writing to the Secretary of the Department. The appeal shall state the appealing party's position which shall be limited to ten pages. The appeal shall be based on the record of the proceedings before the Hearing Officer, and no new evidence may be submitted on appeal. No oral argument shall be available except at the request of the Secretary or his duty appointed designee.~~
 - ~~3)- The Secretary or his duty appointed designee shall issue a decision based on the record before the Hearing Officer and shall notify the parties in writing of the decision. The decision of the Secretary shall be considered final and binding on the parties.~~
- ~~c)- Departmental Action Following Hearing~~

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~~If a sign has been found to be unlawful by the Hearing Officer and no appeal has been taken or if the sign is declared to be unlawful by the Secretary after appeal, then the Department shall issue a "30 day letter" as provided in Section 522.140.~~

Section 522.130 Review Procedures

a) Proceedings

- 1) In response to the timely receipt of the Reply requesting a review, the District shall notify the Director of Highways within ten days that a Review Request has been received. A copy of the notification shall also be sent to the permittee.
- 2) The District and the permittee shall submit, to the Director of Highway or designee, written arguments supporting their positions within thirty days of the Review Request being received by the Director of Highways.
 - A) Written arguments should contain proposed findings of fact and conclusions of law.
 - B) Written rebuttal arguments will not be considered unless they are submitted within 15 days of receipt of the opposing side's written arguments and a copy is sent to the opposing side.
 - C) The Director of Highways or designee may hold a conference if it is necessary to adjudicate conflicting facts or to simplify relevant issues. Conferences may be held in person or by telephone.
- 3) Within thirty days of receipt of arguments and exhibits and a conference, if one is held, the Director of Highways or designee shall render the decision and promptly notify the District and the permittee in writing by certified mail of the decision.
 - A) The decision will be based on the written arguments, the fact finding conference, and relevant exhibits.
 - B) All ex Parte communications with the Director of Highways or designee pertaining to the Review will be promptly summarized and communicated in writing to the uninformed party(ies).
- 4) If the permittee fails to submit written arguments or do not

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submit them within the thirty day period, the resultant decision will be that the allegation or allegations as set forth in the Notice of Intent to Revoke Permit are true, correct, and proven.

- 5) If the District fails to submit written arguments or does not submit them within the thirty day period, the resultant decision will be that the allegation or allegations as set forth in the Notice of Intent to Revoke Permit are unproven.

b) Departmental Action Following Review

- 1) If a sign has been found to be unlawful, the Department shall issue a "30 day letter" as provided in Section 522.140.
- 2) If a sign has been found to be in compliance with this Part, the permit will be considered lawful.
- 3) If the Director of Highways or designee finds that insufficient information has been provided, he/she shall direct the parties to supply the needed information so that a decision can be rendered.

(SOURCE: Section repealed, new Section adopted at ____ Ill. Reg. _____, effective _____)

SUBPART D: STANDARDS FOR SIGNS

Section 522.150 Signs that may not be Erected or Maintained

The following signs shall not be erected or maintained:

- a) Signs located within the right-of-way of an Interstate or primary highway or on any STRUCTURE, WIRE, CABLE, OR OTHER DEVICE OVER OR ABOVE an Interstate or primary highway right-of-way EXCEPT the following:
- 1) SIGNS DESIGNATING THE NAME OF THE RAILROAD which owns the bridge.
- 2) SIGNS DESIGNATING THE CLEARANCE PROVIDED (Sections 5/9-112.1 and 5/9-112.2 of the Code) by the bridge.
- 3) Public utility signs.
- 4) Signs required by the Code.

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- 5) Signs required by the Illinois Vehicle Code (Ill.Rev.Stat. 1991, ch. 95 1/2, pars. 1-100 et seq.) (625 ILCS 5/1-100 et seq.).
- 6) Signs, displays and devices giving specific information in the interest of the traveling public erected and maintained by the Department or by the Illinois State Toll Highway Authority.
- b) Signs which ATTEMPT OR APPEAR TO ATTEMPT TO DIRECT THE MOVEMENT OF TRAFFIC or which contain WORDING, COLOR OR SHAPE WHICH IS SIMILAR TO OFFICIAL TRAFFIC CONTROL SIGNS OR OTHER TRAFFIC CONTROL DEVICES (Section 5/9-112.2 of the Code) as described in the Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code 546).
- c) Signs WHICH CONTAIN OSCILLATING, ROTATING, FLASHING, INTERMITTENT OR MOVING LIGHT OR LIGHTS (Section 5/9-112.2 of the Code), except the following:
- 1) Signs GIVING PUBLIC SERVICE INFORMATION including but not limited to TIME, WEATHER, DATE AND TEMPERATURE (Section 440/6.02(a) of the Act) and signs with displays that change not more frequently than once every ~~twenty-four hours~~ 60 minutes.
- 2) POLE SUPPORTED BUSINESS OR BRAND IDENTIFICATION SIGNS inside business areas WITH CONSTANT ILLUMINATION AND COLOR AND IN WHICH THE ONLY MOVEMENT IS A SLOW ROTATION OF THE ENTIRE BODY OF THE SIGN SO AS TO BE VISIBLE FROM ALL DIRECTIONS (Section 5/9-112.2 of the Code).
- 3) On premise signs which comply with Section 522.190(g).
- d) Signs which are ERECTED, PAINTED OR DRAWN UPON TREES, ROCKS OR OTHER NATURAL FEATURES (Section 440/5 of the Act).
- e) Signs which are obsolete (i.e. advertises something that is no longer there) or STRUCTURALLY UNSAFE OR IN DISREPAIR (Section 440/5 of the Act), unless such structural conditions may be repaired in accordance with the provisions of this act, and the sign owner agrees in writing to make the repairs within 30 days of receipt of the notice to remove.
- f) Signs which project BEAMS OR RAYS OF LIGHT AT THE travelled WAY of a State highway or cause such beams or rays to create GLARE OR to

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IMPAIR THE VISION OF A DRIVER OF ANY MOTOR VEHICLE (Section 440/6.02(b) of the Act).

g) SIGNS WHICH ARE LOCATED WITHIN 1,000 FEET OF OFFICIAL TRAFFIC SIGNS, SIGNALS, OR DEVICES AND OBSCURE OR INTERFERE WITH A DRIVER'S VIEW OF SUCH SIGN, SIGNAL OR DEVICE (Section 440/6.03(a) of the Act).

h) SIGNS WHICH ARE LOCATED WITHIN 1,000 FEET OF APPROACHING, MERGING OR INTERSECTING TRAFFIC AND OBSCURE OR INTERFERE WITH A DRIVER'S VIEW OF SUCH TRAFFIC (Section 440/6.03(a) of the Act).

i) Signs which require a permit for erection or registration under this Part and for which no permit or registration has been issued.

j) Signs which advertise activities that are illegal under Federal, State or local law in effect at the location of those signs or activities. ~~(for example, gambling casinos, betting parlors, drugs)~~

k) Signs which contain any ANIMATED OR MOVING PARTS (Section 440/4.02(g) of the Act).

l) Signs which violate airport hazard zoning regulations adopted by the Department pursuant to the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15 1/2, par. 48.1 et seq.) (620 ILCS 25/1 et seq.) See Illustration J.

(SOURCE: Amended at _____ Ill. Reg. _____, effective _____)

Section 522.200 Standards for Signs in Business Areas

In addition to the standards set forth in Section 522.150, the following standards are applicable to signs in business areas:

- a) NO SUCH SIGN MAY BE ERECTED WHICH EXCEEDS THIRTY FEET IN HEIGHT, SIXTY FEET IN LENGTH, AND 1200 SQUARE FEET IN DISPLAY AREA ON EACH SIDE INCLUDING BORDER AND TRIM BUT EXCLUDING ORNAMENTAL BASE OR APROW, SUPPORTS AND OTHER STRUCTURAL MEMBERS, MEASURED BY THE SMALLEST SQUARE, RECTANGLE, TRIANGLE, CIRCLE, OR COMBINATION THEREOF WHICH WILL ENCOMPASS THE ENTIRE ~~sign~~ display area.(Section 440/6.01 of the Act). No temporary extensions, cut-outs or ornamentation is allowed which enlarges a sign beyond 1200 square feet as measured herein. EXCEPT WITH RESPECT TO REPAIR, REBUILDING, OR REPLACEMENT OF ANY SIGN LAWFULLY ERECTED BEFORE JULY 1, 1993 NO SUCH SIGN MAY BE ERECTED IN ANY COUNTY WITH A POPULATION UNDER 2,000,000 THAT EXCEEDS 800 SQUARE FEET IN SURFACE

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AREA per side EXCLUDING EXTENSIONS AND CUT-OUTS. THE EXTENSIONS AND CUT-OUTS MAY ACCOUNT FOR NO MORE THAN AN ADDITIONAL 20% IN SIGN SURFACE AREA per side. (Section 440/6.01 of the Highway Advertising Control Act of 1971 (Ill. Rev. Stat. 1991, ch. 121, par. 506.01 as amended by P.A. 87-1205, effective July 1, 1993) (225 ILCS 440/6.01)

b) No more than two such signs may be erected in a facing with such facing not to exceed the size limitation stated in subsection (a) above.

c) SUCH SIGNS MAY BE DOUBLE FACED OR PLACED BACK TO BACK OR CONSTRUCTED IN A V-TYPE as long as the angle created is less than ninety degrees (Section 440/6.01 of the Act).

d) No such sign may be erected along the same side of an interstate highway or expressway within five hundred feet of another such sign structure or location where another such sign has been permitted but not yet erected.

e) EXCEPT WITH RESPECT TO REPAIR, REBUILDING, OR REPLACEMENT OF ANY SIGN LAWFULLY ERECTED BEFORE JULY 1, 1993 (Section 440/6.01 of the Act, as amended by P.A. 87-1205, effective July 1, 1993) when located outside of any incorporated municipality, no such sign may be erected along the same side of a primary highway within ~~three~~ five hundred feet of another such sign structure or a location where another such sign has been permitted but not yet erected.

f) EXCEPT WITH RESPECT TO REPAIR, REBUILDING, OR REPLACEMENT OF ANY SIGN LAWFULLY ERECTED BEFORE JULY 1, 1993 (Section 440/6.01 of the Act, as amended by P.A. 87-1205, effective July 1, 1993) when located inside of any incorporated municipality, no such sign may be erected along the same side of a primary highway within ~~one~~ three hundred feet of another such sign structure or a location where another such sign has been permitted but not yet erected.

g) THE SPACING REQUIREMENTS described in subsections (d), (e) and (f) above SHALL NOT APPLY to signs where the sign STRUCTURES ARE completely SEPARATED OR SCREENED BY BUILDINGS, NATURAL SURROUNDINGS OR OTHER OBSTRUCTIONS IN SUCH MANNER THAT ONLY ONE SUCH SIGN FACING LOCATED WITHIN SUCH DISTANCE IS VISIBLE AT ANY ONE TIME (Section 440/6.03(b) of the Act). A sign structure cannot be construed as an obstruction of a sign.

h) The spacing requirements described in subsections (d), (e) and (f) above shall be measured along the edge of the pavement of the highway between the points of each sign structure which lie closest to the highway pavement but in no event shall the distance

- between signs be less than the required spacing. (See Illustrations D-G) Signs visible from two or more highways must be considered in spacing measurements along all such highways. Any sign which has received a permit or a registration shall be included in spacing measurements whether or not the permit or registration has been revoked as long as the sign is visible from any place on the main traveled way of the highway.

i) Outside of an incorporated municipality, NO SIGN STRUCTURE MAY BE ERECTED ALONG AN INTERSTATE HIGHWAY OR EXPRESSWAY ADJACENT TO OR WITHIN FIVE HUNDRED FEET OF AN INTERCHANGE, REST AREA OR WEIGHT STATION, SUCH FIVE HUNDRED FEET TO BE MEASURED ALONG THE MAIN TRAVELED WAY FROM THE BEGINNING OR ENDING OF PAVEMENT WIDENING AT THE EXIT FROM OR ENTRANCE TO THE MAIN TRAVELED WAY (Section 440/6.03(c) of the Act) (see Illustration C).

j) The requirements of this Section SHALL NOT BE CONSTRUED TO APPLY TO OR TO IMPOSE ADDITIONAL LIMITATIONS on directional signs, official signs, official notices, public utility signs, signs advertising the sale or lease of property on which they are located, or on premise signs NOR SHALL SUCH SIGNS BE COUNTED NOR SHALL MEASUREMENTS BE MADE FROM THEM FOR PURPOSES OF DETERMINING COMPLIANCE WITH (Section 440/6.04 of the Act) subsections (d), (e) and (f) above.
- b) NO SUCH SIGN SHALL BE ERECTED OR MAINTAINED WITHIN TWO MILES APPROACHING OR WITHIN 1000 FEET BEYOND AN INTERCHANGE. (Such distances shall be measured along the main traveled way from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.)

c) ONLY SIX SUCH SIGNS MAY BE ERECTED OR MAINTAINED WITHIN TWO TO FIVE MILES APPROACHING AN INTERCHANGE. (Such distances shall be measured along the main traveled way from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.)

d) AN AVERAGE OF ONLY ONE SUCH SIGN PER MILE MAY BE ERECTED OR MAINTAINED MORE THAN FIVE MILES APPROACHING AN INTERCHANGE. (Such distances shall be measured along the main traveled way from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.)

e) NOT MORE THAN TWO SUCH SIGNS WILL BE PERMITTED WITHIN ANY MILE DISTANCE MEASURED FROM ANY POINT, AND NO SUCH SIGNS WILL BE PERMITTED TO BE LESS THAN 1000 FEET APART (Sections 440/4.07(a)-(f) of the Act).

f) No such sign may EXCEED twenty feet in length, width or height or ONE HUNDRED FIFTY SQUARE FEET in area, including border and trim, but excluding supports (Section 440/4.03(c) of the Act).

g) THERE MAY NOT BE MORE THAN ONE SUCH SIGN DESIGNED TO ATTRACT TRAFFIC ON AN INTERSTATE HIGHWAY PROCEEDING IN ANY ONE DIRECTION (Section 440/4.03(a) of the Act).

h) The limitations contained in subsections (b),(c),(d),(e) and (g) above shall be applied against signs based on the direction of travel they are intended to face.

(SOURCE: Amended at _____ Ill. Reg. _____, effective _____)

(SOURCE: Amended at _____ Ill. Reg. _____, effective _____)

Section 522.210 Standards for Signs Providing Information Relative to Lodging, Food, Outdoor Recreational Facilities or Automotive Service Facilities

In addition to the standards set forth in Sections 522.150 and 522.200, the following standards apply to signs providing information relative to lodging, food, outdoor recreational facilities or automotive service facilities (Section 440/4.07 of the Act).

- a) Such signs may be erected and maintained within six hundred sixty feet from the edge of the highway right-of-way within twelve air miles (Section 440/4.07 of the Act) from the advertised activity in the following areas:
- 1) In business areas.
 - 2) Along interstate highways in areas which at any time are zoned for commercial or industrial activities.
 - 3) Along interstate highways in unzoned commercial or industrial areas.

DEPARTMENT OF TRANSPORTATION
NOTICE OF PROPOSED AMENDMENTS

Section 522. Illustration J Public Airports



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF ADOPTED AMENDMENTS

- | | | |
|-----|---|------------------------|
| 1) | <u>The Heading of the Part:</u> Acquisition, Management and Disposal of Real Property | |
| 2) | <u>Code Citation:</u> 44 Ill. Adm. Code 5000 | |
| 3) | <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| | 5000.900 | New |
| | 5000.910 | New |
| | 5000.920 | New |
| | 5000.930 | New |
| | 5000.940 | New |
| | 5000.950 | New |
| | 5000.960 | New |
| | 5000.970 | New |
| | 5000.Appendix B | New |
| 4) | <u>Statutory Authority:</u> Implementing and authorized by Ill. Rev. Stat. 1991, ch. 127, pars. 63b13.24, et seq.) | |
| 5) | <u>Effective Date of Amendments:</u> | January 19, 1993 |
| 6) | <u>Does this rulemaking contain an automatic repeal date?</u> | No. |
| 7) | <u>Do the Amendments contain incorporations by reference?</u> | No. |
| 8) | <u>Date Filed in Agency's Principal Office:</u> | January 19, 1993 |
| 9) | <u>Notice of Proposal Published in Illinois Register:</u> | |
| | July 17, 1992, 16 Ill. Reg. 11378 | |
| 10) | <u>Has JCAR issued a Statement of Objections to the Amendments?</u> | No. |
| 11) | <u>Differences between proposal and final version:</u> | |
| | Section 5000.910. The following was added to the end of the definition of "Demonstration": "However, nothing herein shall be construed to govern lobbyists or lobbying as defined by the Lobbyist Registration Act (Ill. Rev. Stat. 1991, ch. 63, par. 171, et seq.) nor shall a demonstration mean the peaceful contact or discussions by one or more persons with elected representatives or with executive branch officials concerning their view on public or personal issues." Also changed the alphabetical order of "Security Personnel". Added "CMS" immediately following "Central Management Services". | |
| | Section 5000.910. Added "by" after "which" in definition of "Interfere". | |

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 5000.920(a). "State of Illinois Center" was added directly before "SOIC"

Section 5000.920(b)(1). Added "s" to "member".

Section 5000.930(e). Added the text ", unless prior permission is granted pursuant to Section 5000.940(d).

Section 5000.930(d). Added the word "written" before "permission" in the first sentence. Added a new second sentence which reads "Permission will be granted only if the posters or signs will not interfere with State business."

Section 5000.930(f). Added the word "written" before "permission" in the second sentence. Added subparagraph (2).

Section 5000.930(j). Changed "paragraphs (c) through (i)" to "subsections (c) through (i) of this Section".

Section 5000.940(a). Added the following text: "The Department or Building Manager will employ the following elements in evaluating whether another event may be permitted: whether the facility needs to be used for governmental purposes or whether the new request can be accommodated without disruption to the previously scheduled event. Notwithstanding the foregoing, events may be cancelled in cases involving natural disaster, public health or safety concerns (e.g., floods, civil disturbance, public health, etc.)."

Section 5000.940. The unlabeled paragraph after subsection (i) was labeled subsection (j) and "this paragraph" was changed to "this Section".

Section 5000.950(d). After the first sentence, added the following text: "Minimum and maximum rental fee ranges and conditions for the State of Illinois Center and all other Department facilities are in Appendix B of this Part. An increase/reduction from the minimum/maximum rental rate may be required or granted, based on the following factors: whether the scheduled event is conducted during government business hours or with another event; relative anticipated safety considerations of the scheduled activity; and market prices for competing facilities in the nearby metropolitan area(s).

Section 5000.950(e). Deleted the last sentence.

Section 5000.950(f). Revised the first sentence to read: "The group sponsoring the event must provide an insurance binder or assurance on the letterhead of the issuing company of coverage for the scheduled event and anticipated attendance of one million dollars to the Department ten (10) working days prior to the event."

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 5000.960(e). Changed "subparagraph (a)" to "subsection (a)". "Subparagraph (d)" was changed to "subsection (d) of this Section".

Section 5000.960(f). Changed "subparagraph (a)" to "subsection (a) of this Section". Also added the text ", unless granted a demonstration permit pursuant to Section 5000.940" to the third to last sentence in subsection.

Section 5000.970: Changes "rules" to "Rules".

Added Appendix B, Rental Fees.

Several minor editing changes were also made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will the Amendments replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Amendments:

Establish procedures for use of State-owned buildings under the management of the Department of Central Management Services for public demonstrations, exhibits and special events.

16) Information and questions regarding the adopted amendments shall be directed to:

John Peters
710 Stratton Office Building
Springfield, IL 62706
(217)524-4444

The full text of the Adopted Amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND

PROPERTY MANAGEMENT

SUBTITLE D: PROPERTY MANAGEMENT

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5000

ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY

SUBPART A: GENERAL

Section
5000.100
5000.110
5000.120

Authority
Policy
Applicability

SUBPART B: LEASED SPACE ACQUISITION POLICY

Section
5000.200
5000.210
5000.220
5000.230
5000.240

General Policy and Responsibility
Requests for Space/Agency Responsibilities
Acquisition Authority
Acquisition Procedures
Lease Administration

SUBPART C: BUILDING STANDARDS

Section
5000.300
5000.310
5000.320
5000.330
5000.340
5000.350
5000.360
5000.370
5000.380

Scope
Area Measurement
Space Planning Assistance
Open Space
Space Allowance and Standards
Office Furnishing
Handicapped Accessibility
Vending Facilities/Blind Operations
Improvements

SUBPART D: ASSIGNMENT AND MANAGEMENT OF SPACE

Section
5000.400
5000.410
5000.420
5000.430
5000.440
5000.450

Assignment and Management by DCMS
Assignment by Agencies
Reviews and Appeal of Space Assignment Actions
Services Provided
Alterations
Local Requirements

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: UTILIZATION OF SPACE
(STATE OWNED AND LEASED PROPERTIES)

Section
5000.500
5000.510
5000.520
5000.530

Space Inspections and Surveys
Responsibility of Agencies
Release of Space Not Fully Utilized
Notice of DCMS of Relinquishment or Termination of Space

SUBPART F: EXCESS REAL PROPERTY

Section
5000.600
5000.610
5000.620
5000.630
5000.640
5000.650
5000.660

Excess Real Property Defined
Reports of Excess Real Property
Utilization of Excess Real Property
Charges for Use of Excess Property
Temporary Occupancy
Disputes
Non-State Use

SUBPART G: SURPLUS REAL PROPERTY

Section
5000.700
5000.710
5000.720
5000.730
5000.740
5000.750
5000.760
5000.770
5000.780
5000.790
5000.800
5000.810
5000.820
5000.830
5000.840

Surplus Real Property Defined
Declaration of Surplus
Reporting Surplus Real Property
Notice of Availability to State Agencies
State Agency Requests for Surplus Real Property
Transfer Decisions
Transfer Procedures
Transfer to Department of Central Management Services
Subsequent Disposal
Sale of Surplus
Notice of Sale to Local Governments
Local Government Offer to Purchase
Public Sale
Public Sale Procedures
Non-State Interim Use

SUBPART H: USE OF OFFICE BUILDINGS

Section
5000.900
5000.910
5000.920
5000.930
5000.940
5000.950
5000.960

Applicability
Definitions
Business Hours and Public Access
Prohibited Activities
Demonstrations
Exhibits and Special Events
Distribution of Leaflets and Solicitations of Funds, Voter
Registration and Signatures

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Commercial Activity" means an activity whose primary purpose is to obtain a profit for the benefit of an individual or business entity organized for profit.

"Demonstration" means demonstrating, picketing, marching, rallying, selling non-commercial printed matter or materials, moving in procession, holding of vigils, and all other forms of public demonstrative activity that involve the communication or expression orally or by conduct of views or grievances engaged in by one or more persons, the conduct of which has the effect, intent, or propensity to draw a crowd of onlookers within 100 feet of the buildings named in Section 5000.900 of this Subpart. Demonstration shall also mean demonstrating, parading, picketing, speechmaking, holding of vigils, sit-ins or other activities conducted for the purpose of demonstrating approval or disapproval of governmental policies or practices (or the lack thereof), expressing a view on public issues or bringing into public notice any issue or other matter. However, nothing herein shall be construed to govern lobbyists or lobbying as defined by the Lobbyist Registration Act (Ill. Rev. Stat. 1991, ch. 63, par. 171, et seq.) nor shall a demonstration mean the peaceful contact or discussions by one or more persons with elected representatives or with executive branch officials concerning their view on public or personal issues.

"Department" means the Department of Central Management Services (CMS).

"Director" means the Director of the Department of Central Management Services (CMS).

"Exhibits" means a static display of material including, but not limited to art work, photographs, or historical displays.

"Grounds" shall mean the grass area, garden areas, outside areas of the building and all parking areas of the building.

"Interfere" or "interference" shall mean the type of conduct which by its nature tends to hinder, disrupt or obstruct the orderly function of the official enterprises being carried on in the building.

"Security Personnel" means the CMS Police, contractual security guards, local, county or Illinois State Police.

"Special Events" means an activity involving a non-state entity, including but not limited to corporations, not-for-profit organizations, private individuals or groups and takes place after normal business hours or on weekends or holidays. State agency functions other than normal duties and State agency sponsored functions are also considered special events.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Severability

APPENDIX A Space Standards

APPENDIX B Rental Fees

AUTHORITY: Implementing Section 7.1 of the State Property Control Act (Ill. Rev. Stat. 1991, ch. 127, par. 133b10.1), implementing and authorized by Sections 51, 67.02, 67.06, 67.07, 67.10-67.14, 67.22 and 67.24 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, pars. 51, 63b13.2, 63b13.6, 63b13.7, 63b13.10 - 63b13.14, 63b13.22 and 63b13.24) and authorized by Section 6 of the State Property Control Act (Ill. Rev. Stat. 1991, ch. 127, par. 133b9).

SOURCE: Adopted at 6 Ill. Reg. 12984, effective October 13, 1982; emergency amendment at 7 Ill. Reg. 3743, effective March 18, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 7825, effective June 22, 1983; emergency amendment at 8 Ill. Reg. 13444, effective July 17, 1984 for a maximum of 150 days; codified at 8 Ill. Reg. 19345; amended at 10 Ill. Reg. 636, effective December 31, 1985; amended at 17 Ill. Reg. 1006, effective January 19, 1993.

SUBPART H: USE OF OFFICE BUILDINGS

Section 5000.900 Applicability

This Subpart is applicable to the use of the Peoria Regional Office Building, Springfield Regional Office Building, Champaign Regional Office Building, Marion Regional Office Building, East St. Louis Regional Office Building, Rockford Regional Office Building, State of Illinois Building, Office and Laboratory Building, Illinois State Armory, Central Computer Facility, Elgin Office Building, State of Illinois Center, Chicago Medical Center, Rockford Office Building and Maine Township High pursuant to Ill. Rev. Stat. 1991, ch. 127, par. 63b13.24.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.910 Definitions

"Authorized Representative" means an employee of the Department authorized by the Director to act on his behalf.

"Building" or "Buildings" means the buildings named in Section 5000.900 of this Subpart.

"Building Manager" means the resident manager or engineer of the facility who is responsible for day to day operations of the facility.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Structure" shall mean anything built by any person or persons of any material for purposes of display, residence or as part of a demonstration. This term shall not refer to anything built pursuant to a state contract for construction, remodeling, or repair of any State property or a building defined in Section 5000.900.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.920 Business Hours and Public Access

a) The public business hours of the State of Illinois Center (SOIC) are 6:30 a.m. to 6 p.m. Monday through Friday, and 10 a.m. to 4 p.m. Saturday, Sunday and holidays. The public business hours of the other Buildings are 7 a.m. to 6 p.m. Monday through Friday, except holidays declared by the Governor pursuant to Section 18 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 18).

b) Entrance to any building during other than the times stated in subsection (a) of this Section is prohibited, except for the following persons who shall be admitted to office areas assigned to them for their use in carrying out their official duties:

- 1) members of the General Assembly;
- 2) employees of the General Assembly;
- 3) employees of the executive departments whose offices are in the building;
- 4) any authorized maintenance, repairer, contractor or other service employee, while performing duties which have been arranged for by the Department of Central Management Services; and
- 5) any person who is specially requested to enter into any building or office by an authorized individual listed in subsection (b)(1) to (4) of this Section.

c) Proper identification of all persons, such as a press pass, government identity card, a driver's license or other document which shows the identity of the person, may be demanded by security personnel, and all persons will be required to sign in and out of a building after 6 p.m. and before 7 a.m. Only one entrance shall be open after the public business hours. Factors to be considered in which identification may be requested include, but are not limited to: the security guard does not recognize the individual; the behavior of the individual and accessibility to office areas, work areas and restricted access areas.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.930 Prohibited Activities

a) No animals, except guide dogs to assist handicapped persons, shall be permitted in the buildings.

b) No person or organization shall camp, erect a tent, monument (except as authorized by the Department to commemorate a deceased public official or a historical event), structure, portable toilet, platform, sign or similar device on the grounds of or within the buildings except as provided in subsection (f) of this Section.

c) No person or organization shall block, obstruct, or impede any doorway, stairway, corridor, escalator, elevator, convenience or facility in the Building.

d) No posters or signs may be carried above the first floor of the Buildings except with written permission of the Building Manager or security personnel. Permission will be granted only if the posters or signs will not interfere with State business. No sticks, poles or laths may be used to carry any sign or placard into the buildings. No chains or ropes may be carried into the buildings, except by authorized workers and State employees, without the permission of the Building Manager.

e) No person or group of persons shall use any electronic loudspeaker, bullhorn or other amplifying device within the buildings or grounds, unless prior permission is granted pursuant to Section 5000.940(d).

f) No signs, posters, stickers or decals for demonstration purposes may be affixed in any way to the walls, railings, floors or ceilings of the buildings. No displays or structures (including tents) in the buildings or on the grounds may be erected without the written permission of the Department pursuant to Section 5000.940.

Permission shall be granted only if the:

1) display structure is part of symbolic expression in the exercise of free speech guaranteed by the First Amendment to the United States Constitution and Article I, Sections 4 and 5 of the 1970 Illinois Constitution; and

2) signs, posters, stickers or decals will not deface or damage the walls, railings, floors or ceilings of the buildings.

g) The display of commercial signs, placards, or other forms of advertisement, or the sale, display, or vending of commercial products or articles in the buildings or on the grounds is prohibited, except pursuant to contract with the State.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- h) The noise level from demonstrators, picketers, and protesters of any group or groups, or as individuals within the Building shall not exceed a decibel level of 85dB(A). If the noise level from these persons exceeds this limit, the Building Manager or other authorized representatives shall direct all persons to decrease the noise or to reduce the numbers of people within the Building to lower the noise level to the specified level, which shall not exceed 85dB(A).
- i) No person or organization shall damage, destroy, remove, deface, defile, tarnish, or injure in any way State property within the buildings or on the grounds thereof. All persons and organizations engaging in this type of prohibited activity will be responsible for all costs, expenses, damages, and liability resulting from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to State property.

- j) Any violation of the prohibited activities listed in subsections (c) through (i) of this Section or failure to follow requests of security personnel may result in individuals or groups being removed from the premises.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.940 Demonstrations

- a) The holding or conducting of any demonstration, public meeting, gathering, or parade on or in the buildings or their grounds is prohibited unless a permit for such activity is issued by the Department or its authorized representatives. A written request addressed to the Building Manager must be submitted at least 48 hours in advance of such an event, unless the requester can show by the preponderance of the evidence, that the cause or reason for the requested demonstration, meeting, gathering or parade was not known, contemplated, reasonably foreseeable, or resulted from changed circumstances, not in existence within those 48 hours. No such request shall take precedence over an activity which was previously scheduled and approved by the Department, unless approved by the Department. The Department or Building Manager will employ the following elements in evaluating whether another event may be permitted: whether the facility needs to be used for governmental purposes or whether the new request can be accommodated without disruption to the previously scheduled event. Notwithstanding the foregoing, events may be cancelled in cases involving natural disaster, public health or safety concerns (e.g., floods, civil disturbance, public health, etc.).

- b) The written request shall state the name of the individual, organization, corporation, association, society, fraternity, sorority, club, or group of whatever kind or nature seeking to use

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the building or the grounds. The request shall also list the names and addresses of all officers or leaders, the particular facility desired to be used, the dates and times sought, equipment to be used or supplied, and the estimated number of the participants.

- c) Any group seeking a permit hereunder that will have 100 or more participants at any demonstration shall have one marshal per 25 participants. Marshals will be identified by insignia supplied by the Building Manager or security personnel. The marshals' duties shall include making certain, to the best of his/her ability under the circumstances, that the conditions of the permit are met, that compliance with the rules occurs, that the demonstrations remain peaceful and orderly and the participants remain within the physical boundaries of the permit.

- d) The Department or its authorized representatives will issue a permit to an applicant unless they find that the intended activity will:

- 1) Unreasonably interfere with the movement of vehicular traffic in the parking lots of the buildings, loading docks or persons within the buildings or on the grounds;
 - 2) Not occur in the area designated and will create or cause a health and/or safety hazard and will impede substantially the performance of public business or the retail businesses in the SOIC to be conducted in the area;
 - 3) Endanger the health and safety of the permit applicants or other persons;
 - 4) Be a commercial activity; or
 - 5) Conflict in date, time, and place with a previously scheduled activity of another applicant or a government agency unless approved by the Building Manager.
 - 6) Create an unreasonable risk of damage to State property, buildings or grounds.
- e) A permit issued by the Department of Central Management Services to hold a demonstration at a building does not allow the individuals or groups to engage in any activity prohibited by Section 5000.930. Failure to cease a prohibited activity may result in individuals or groups being removed from the premises by security personnel.
- f) Applicants denied a permit may modify their request to meet the objection and concerns of the Building Manager and may resubmit their application for consideration.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- g) A written request in letter form addressed to the Building Manager shall be considered an application. A written response from the Department or its authorized representative approving part or all of the application shall be considered the permit. The written response shall state if applicable the reasons for denying in whole or in part the request. The Department or its authorized representative is required to show that an unreasonable interference or prohibited activity will occur or is occurring when they deny the request in whole or in part.
- h) A person or organization denied a permit, in whole or in part, may appeal the denial to the Director of the Department of Central Management Services. The appeal must be submitted at least 24 hours prior to the time of the requested demonstration, to allow the Director time within which to consider and decide the appeal. The Director's decision shall be in writing, and shall be made at least 2 hours prior to the requested demonstration's time of starting.
- i) Demonstrations at the buildings listed in Section 5000.900 may only be held during normal business hours. No demonstrators will be allowed in the building before it is open to the public and all demonstrators and material must be removed at the close of the business day. Failure to vacate the premises will be grounds for security personnel to remove all demonstrators and their material from the building.
- j) Violations of the provisions of the permit issued by the Department of Central Management Services will also be grounds for removal from the premises. Any exemption from the provisions of this Section must be approved by the Director.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.950 Exhibits and Special Events

- a) All organizations that are permitted to use the buildings specified in Section 5000.900 of this Subpart shall be required to execute an agreement to indemnify the State from any injury or damage caused by their members' or participants' negligence or willful misconduct. The members or participants who cause the damage or injury are primarily responsible. Such organization shall also restore the used areas to their pre-use appearance and condition, less reasonable wear and tear, and the Building Manager shall be the final decision-maker on the clean-up of the used area. This subsection only applies to those organizations receiving permission from the Department to use the specified buildings for meetings or parties.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- b) Special Events and exhibits at the buildings may be requested up to one year in advance of the date for the special event or exhibits. Requests must be in writing and submitted to the Building Manager. All requests for special events and exhibits will be filled on a first-come first-served basis. A letter of confirmation or rejection will be mailed within ten (10) working days.
- c) The areas available for Special Events at the SOIC are the concourse level, atrium level, assembly hall, outdoor plaza and covered arcade, conference/hearing rooms and agency office areas with permission of the agency. Exhibits are allowed only in the atrium lobby level of the SOIC unless permission is granted to use another part of the building by the Department. Exhibits may not promote religious philosophies or political candidates or philosophies.
- d) Organizations wishing to use the buildings should contact the Building Manager for the applicable fee for the space they intend to use at a building. Minimum and maximum rental fee ranges and conditions for the State of Illinois Center and all other Department facilities are in Appendix B of this Part. An increase/reduction from the minimum/maximum rental rate may be required or granted, based on the following factors: whether the scheduled event is conducted during government business hours or with another event; relative anticipated safety considerations of the scheduled activity; and market prices for competing facilities in the nearby metropolitan area(s). The Building Manager or office will maintain a fee schedule for the building. All payments are due at least ten (10) working days prior to the event or exhibit, with the exception of clean-up fees which are due within ten (10) working days of billing. All payments shall be made to the Office of the Building.
- e) Film crews and photographers for commercial purposes are permitted at the SOIC with permission of the Building Manager.
- f) The group sponsoring the event must provide an insurance binder or assurance on the letterhead of the issuing company of coverage for the scheduled event and anticipated attendance of one million dollars to the Department ten (10) working days prior to the event. Failure to provide proof is cause for termination of the lease. Further information on any insurance requirement is available from the Building Manager.
- g) A signed copy of the lease agreement at the SOIC with the base rental fee is due at least ten (10) working days prior to the event except in cases of emergencies, at the SOIC Office of the Building.
- h) A minimum of one planning meeting must be held with the Building Manager or the Manager's representative at least one week prior to the event.

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- i) All food and beverage services for SOIC special events must be provided in accordance with the terms of the Department's commercial space master lease. Further information is available from the Office of the Building. Food and beverage service at other buildings must be coordinated with the Building Manager.
- ii) Displays may not exceed 8 feet in height or block entrances, fire exits and hallways and must comply with all fire code and regulations. They may not obscure the view of Atrium Mall shops at the SOIC during business hours.
- k) The State does not supply equipment, set-up personnel, storage, special security or insurance. These must be provided by the exhibitor. The State accepts no responsibility for loss or damage to any part of an exhibit.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.960 Distribution of Leaflets and Solicitations of Funds, Voter Registration and Signatures

- a) No organization, including charitable organizations and political parties or candidates, shall distribute leaflets to, register voters, obtain signatures or solicit and collect funds from persons entering or in the buildings specified in Section 5000.900, except from public sidewalks.
- b) No such distribution or solicitation shall be allowed in any automobile parking area under the control of the Department within business areas in the buildings specified in Section 5000.900 of this Subpart.
- c) Activities included in subsection (a) of this Section shall not be allowed without the written permission of the Department.
- d) All requests to engage in such activity must be submitted in writing at least 48 hours in advance of the activity to the Building Manager, unless the criteria for requests within less than the 48 hours set forth in Section 5000.940 of this Subpart are met.
- e) Organizations requesting authorization for activities listed in subsection (a) must put the request in writing per subsection (d) of this Section. The request shall state the name of the organization, time and beginning and ending dates of the activity.
- f) The organization must provide a sign 12" x 12" posted at the table, identifying the organization and that there is no affiliation with the State of Illinois. Each person engaged in activities approved by the Department must wear a badge containing the individual and

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organization names. The organization and its members agree they will not approach, harass, or attempt to compel the public in any activity approved by the Department under subsection (a) of this Section. They also agree to stay in the area designated by the Department and shall not interfere with the business being conducted at the building. The organization and its members shall not engage in any partisan activity, nor shall they advocate for a political party, candidate or issue. No material shall be distributed by the organization, unless granted a demonstration permit pursuant to Section 5000.940. Deviations from the requirements of this subparagraph must be approved in advance of the activity by the Department. Failure to follow the rules may result in the organization being removed from the premises and permission being denied to continue the activity.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.970 Severability

If any part of these Rules shall be held by a court of competent jurisdiction to be invalid, such holding shall not effect the remaining parts hereof.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

Section 5000.APPENDIX B Rental Fees

RENTAL RATES
STATE OF ILLINOIS CENTER AT CHICAGO
FOR
GOVERNMENTAL/CHARITABLE TAX EXEMPT ORGANIZATIONS

CONCOURSE LEVELS:

Base Rent: \$1,100.00/1,265.00 minimum/for 250 people or less.
Additional charge: A \$1.50/\$1.65 charge for each person over 250 attending the event.
Hours: 6:00 p.m. to 1:00 a.m. Monday through Friday. All day to 1:00 a.m. on weekends and holidays.

Set-up/Take-down: A three hour set-up and a three hour take-down period is allowed at no extra charge.

ASSEMBLY HALL: (600 Seat Capacity)

Base Rent: 8:00 a.m. to 1:00 a.m. - \$150.00/hr.
(2 hour minimum) or \$400.00/\$460.00 per day. Mon-Fri

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Set-up/Take-down:

A one hour set-up period and a one hour take-down period is allowed at no extra charge.
WEEKENDS: \$400.00/\$460.00

EQUIPMENT RENTAL RATES:

3/4" overhead video projector \$ 75.00
35 mm. slide projector \$ 50.00
Overhead projector \$ 50.00
Piano (baby grand) \$100.00
Portable video/monitor \$ 75.00

CONFERENCE/HEARING ROOMS:Hearing Room 9-040, 2-025

Capacity 115
Half day - (4 hours or less)
6:00 p.m. - 1:00 a.m.

\$100.00/\$115.00
\$200.00/\$230.00

Conference Rooms:
9-031 and 9-036

Capacity/36-47
Half day - (4 hours or less)
6:00 p.m. - 1:00 a.m.

\$ 50.00/\$ 75.00
\$100.00/\$150.00

Conference Rooms:
8-031, 8-032 and 8-033
9-034, 9-035 and 9-039

Half day (4 hours or less)
6:00 p.m. - 1:00 a.m.

\$25.00/\$26.25
\$50.00/\$57.50

Base Rent:
Hours:

\$250.00/\$287.00
8:00 a.m. - 1:00 a.m.

DISPLAYS/EXHIBITS/INFORMATION BOOTHS:

There is no charge for governmental or tax exempt organizations for setting up displays, exhibits or information booths concerning items of general public interest. These can be scheduled through the Special Events Coordinator.

RENTAL RATES
STATE OF ILLINOIS CENTER AT CHICAGO
FOR
PROFESSIONAL ASSOCIATIONS

CONCOURSE LEVELS:Base Rent:

\$1,500.00/\$1,650.00 minimum/for 250 people or less.

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Additional charge: A \$1.50/\$1.72 charge for each person over 250 attending the event.

Hours: 6:00 p.m. to 1:00 a.m. Monday through Friday.
All day to 1:00 a.m. on weekends and holidays.

Set-up/Take-down: A three hour set-up and a three hour take-down period is allowed at no extra charge.

ASSEMBLY HALL: (600 Seat Capacity)Base Rent:

8:00 a.m. to 1:00 a.m. - \$150.00/\$172.50 hr. (2 hour minimum) or \$500.00/\$575.00 per day. Mon. - Fri.

Set-up/Take-down:

A one hour set-up period and a one hour take-down period is allowed at no extra charge.
WEEKENDS: \$500.00/\$575.00

EQUIPMENT RENTAL RATES:

3/4" overhead video projector \$ 75.00
35 mm. slide projector \$ 50.00
Overhead projector \$ 50.00
Piano (baby grand) \$100.00
Portable video/monitor \$ 75.00

CONFERENCE/HEARING ROOMS:Hearing Room 9-040, 2-025

Capacity 115
Half day - (4 hours or less)
6:00 p.m. - 1:00 a.m.

\$100.00/\$115.00
\$200.00/\$230.00

Conference Rooms:
9-031 and 9-036

Capacity 36-47
Half day - (4 hours or less)
6:00 p.m. - 1:00 a.m.

\$ 50.00/\$ 57.50
\$100.00/\$115.00

Conference Rooms:
8-031, 8-032 and 8-033
9-034, 9-035 and 9-039

Capacity 17-24

Half day (4 hours or less)
6:00 p.m. - 1:00 a.m.

\$ 25.00/\$ 26.25
\$ 50.00/\$ 57.50

OUTDOOR PLAZA:Base Rent:

\$250.00/\$287.00
8:00 a.m. - 1:00 a.m.

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RENTAL RATES

STATE OF ILLINOIS CENTER AT CHICAGO
PRIVATE/CORPORATE ORGANIZATIONSCONCOURSE LEVELS:

Base Rent: \$1,950.00/\$2,242.50 minimum/for 250 people or less.
Additional charge: \$1.50/\$1.72 charge for each person over 250 attending the event.

Hours: 6:00 p.m. to 1:00 a.m. Monday through Friday. All day to 1:00 a.m. on weekends and holidays.

Set-up/Take-down: A three hour set-up and a three hour take-down period is allowed at no extra charge.

ASSEMBLY HALL: (600 Seat Capacity)

Base Rent: (2 hour minimum)
Monday - Friday: 8:00 a.m. to 5:00 p.m. - \$150.00/\$165.00 hr. - Max \$750.00/\$862.50
Monday - Friday: 5:00 p.m. to 1:00 a.m. - \$150.00/\$165.00 hr. - Max \$750.00/\$862.50
Weekends/Holidays: 8:00 a.m. to 1:00 a.m. - \$250.00/\$287.50 hr. - Max \$1,250.00/\$1437.50
Set-up/Take-down: A one hour set-up period and a one hour take-down period is allowed at no extra charge.

Note: There is a 2 hour minimum rental rate.

EQUIPMENT RENTAL RATES:

3/4" overhead video projector \$ 75.00
 35 mm. slide projector \$ 50.00
 Overhead projector \$ 50.00
 Piano (baby grand) \$100.00
 Portable video/monitor \$ 75.00

CONFERENCE/HEARING ROOMS:

Hearing Room 9-040, 2-025 Capacity 115
 Half day - 4 hours or less \$125.00/\$143.75
 6:00 p.m. - 1:00 a.m. \$225.00/\$258.75

Conference Rooms:

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9-031 and 9-036

Capacity 36-47
 Half day - 4 hours or less \$ 75.00/\$ 86.25
 6:00 p.m. - 1:00 a.m. \$125.00/\$143.75

Capacity 17-24

Conference Rooms:
8-031, 8-032
and 8-033
9-034, 9-035
and 9-039

Half day - 4 hours or less \$ 50.00/\$ 57.50
 6:00 p.m. - 1:00 a.m. \$ 75.00/\$ 86.25

OUTDOOR PLAZA:

Base Rent: \$750.00/\$862.50
Hours: 8:00 a.m. - 1:00 a.m.

DISPLAYS, EXHIBITS, PRODUCT INFORMATION BOOTHS:

Maximum period 2 weeks.
of display: Rate range is based on size and complexity of exhibit.
Base Rent: Minimum rate: \$250.00/\$287.50 day.
 Half days pro-rated.

Fee includes electricity if displays are lighted.

FEE SCHEDULE
STATE BUILDINGS

PRIVATE/CORPORATE:

Auditorium \$50.00/\$57.50 per hour/\$300.00/\$345.00
Dining Room and/or Patio** maximum
Large Conference Room

Small Conference Room \$25.00/\$28.75 per hour/\$125.00/\$143.75
 maximum

STATE AGENCIES:

Auditorium No charge
Dining Room and/or
Patio
Large Conference
Room
Small Conference
Room

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NOTICE OF ADOPTED AMENDMENTS

EQUIPMENT AVAILABLE:

Overhead Projector (2) \$10.00
52" TV & VCR \$10.00
35 mm Slide Projector \$10.00
55 Cup Coffee Maker (2) No Charge
User supplies full coffee service

All equipment must be returned in same condition received.
State agencies are not charged for equipment use.

**Additional \$100.00/\$115.00 fee for this space when attendance exceeds 200.

CLEANING

All after hours user groups will be charged a cleaning fee based on attendance, should the condition of the space used require it.

Under 100 \$25.00/\$28.75
Between 100-200 \$50.00/\$57.50
Over 200 \$75.00/\$86.25

PROCEDURES AND REGULATIONS

A tentative hold may be placed on space via telephone.

Permanent hold on space must be done by letter of request from user group.

All non-State user groups must show proof of one million dollar liability insurance for after hours events.

EVENT HOURS:

Monday - Friday: 5:00 p.m. - 1:00 a.m.
Saturday & Sunday: 8:00 a.m. - 1:00 a.m.

FINALIZING EVENT:

Meeting between building staff and user group to take place 1 month prior to event.

Signed contract, certificate of insurance, and check for full amount due 2 weeks prior to event.

(Source: Added at 17 Ill. Reg. 1006, effective January 19, 1993)

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- 1) The Heading of the Part: Appeal of Child Abuse and Neglect Investigation Findings
- 2) Code Citation: 89 Ill. Adm. Code 336
- 3) Section Numbers:

336.10	New Section
336.20	New Section
336.30	New Section
336.40	New Section
336.50	New Section
336.60	New Section
336.70	New Section
336.80	New Section
336.90	New Section
336.100	New Section
336.110	New Section
336.120	New Section
336.130	New Section
336.140	New Section
336.150	New Section
336.160	New Section
336.170	New Section

Adopted Action:
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 23, pars. 2057.16 and 5004 and 5005.
- 5) Effective Date of Rules: January 15, 1993
- 6) Does this rulemaking contain an automatic repeal date: Yes ☐ No ☒
If so, please specify date:
- 7) Do these rules contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 15, 1993.
- 9) Notice(s) of Proposal Published in Illinois Register: 16 Ill. Reg. 7963, May 29, 1992
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No
- 11) Difference(s) between proposal and final version:

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Section 336.20, Definitions

"Administrator of the Administrative Hearing Unit" was moved to its correct alphabetical order.

"Credible evidence of child abuse or neglect" was added to the definitions and reads as follows: "Credible evidence of child abuse or neglect" means that all the available facts when viewed in light of surrounding circumstances would cause a reasonable person to believe that a child was abused or neglected."

"Neglected Child" - the following underscored language was deleted: " or there is a substantial risk that such parent or person responsible will not provide."

"Subjects of Child Abuse and Neglect Reports" has been changed to "Subject of Report". The definition was put in italics with the exception of the words "State", "personal" and "for the child's welfare". A statutory citation was added to the end of the definition.

"Unfounded report" was italicized with the exception of the words "of child abuse or neglect" and a statutory citation was added to the end of the definition.

Section 336.30

(a) - "of this Part" was added after the reference to "Section 336.40"

Section 336.40

(d) - The last word of the subsection, "law" was deleted and replaced by "Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1991, ch. 23, par. 2051 et. seq.)."

Section 336.50

In the first paragraph "of this Part" was inserted after the references to "Section 336.40", and again in (d) after the reference to "Section 336.80".

Section 336.70

(b) (3) - A semicolon followed by the word "and" was added to the end of the statement.

Section 336.90

(a) - The following phrase was added to the end of this sentence "(e.g., the request for appeal was not received within required timeframes."

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(d) - The word "with" was corrected to "within".

Section 336.100

(a) (2) - A semicolon followed by the word "and" was added to the end of the statement.

(b) - "of this Part" was added to the end of the sentence.

(c) - " of this Part" was added after the reference to "Section 336.110 (a) (2) and after "Section 336.150 (c) and (d)".

Section 336.110

(a) (3) - The following was added to the end of (a) (3) - "as set forth in Sections 336.30 and 336.40 of this Part".

(b) (4) - The words "appeal system" were replaced by "Administrative Hearings Unit as set forth in Sections 336.30 and 336.50 of this Part".

(c) - In the second sentence the word "system" was replaced with "Unit".

Section 336.120

(g) (3) - "of this Part" was added after the reference to "Section 336.130 (b) (7)."

Section 336.150

(a) - To the end of the first sentence the following language was added - "based upon the credible evidence standard".

(d) (5) - A semicolon and the word "and" were added to the end of (5).

(d) (6) - The Code citation was changed to 89 Ill. Adm. Code 300.100 (i).

Section 336.160

In the first sentence "system" was changed to "Unit". At the end of the last sentence the word "and" was added after "state" and after "laws".

12)

Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

TITLE 89: SOCIAL SERVICES

PART 336

APPEAL OF CHILD ABUSE AND NEGLECT

INVESTIGATION FINDINGS

- 13) Will these proposed rules replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 5) Summary and Purpose of proposed rules: These rules describe the process by which persons may appeal child abuse and neglect investigation findings and replace repealed Part 89 Ill. Adm. Code 309, Review and Appeal Process.
- 16) Information and questions regarding these rules shall be directed to:
- Name: Jacqueline Nottingham, Chief

Address: Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe
Springfield, Illinois 62701-1498

Telephone: 217/524-1983

17) The full text of the adopted rules is as follows:

Section 336.10 Purpose

The purpose of these rules is to explain the review and administrative hearing process the Department guarantees to persons requesting to amend/expunge identifying information from or remove the record of a child abuse or neglect report from the State Central Register.

Section 336.20 Definitions

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

Section 336.10 Purpose

The purpose of these rules is to explain the review and administrative hearing process the Department guarantees to persons requesting to amend/expunge identifying information from or remove the record of a child abuse or neglect report from the State Central Register.

Section 336.20 Definitions

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

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inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child; or

inflicts excessive corporal punishment. (Ill. Rev. Stat. 1991, ch. 23, par. 2053)

"Administrative hearing" in the context of this Part means a formal review of a decision made by a Department child protection investigator which has been upheld by an internal review.

"Administrative law judge" means an attorney who is appointed by the Director of the Department and is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearing Unit" means the person who is responsible for coordinating the administrative hearing appeal process.

"Administrator of the child protection internal review system" means the person who is responsible for coordinating the child protection internal review process.

"Amend" as used in this Part means changing an allegation contained in an indicated report of child abuse or neglect or changing identifying information regarding the subjects of an indicated child abuse or neglect report.

"Appeal process" means the two step appeal process, including the child protection internal review and the formal administrative hearing.

"Appellant" means the person who requests a review or administrative hearing or in whose behalf a review and administrative hearing is

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requested.

"Child protection appeal form" means the Department's form used to gather appellants' information supporting their request to amend or expunge the indicated report.

"Credible evidence of child abuse or neglect" means that all the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Child protection internal review" means an informal review held at the Department's child protection administrative level in order to reevaluate the determination made by a child protection investigator.

"Date of action" means the date on which any Department action becomes effective.

"Date of appeal" is the postmark on the appellant's request to appeal the Department's decision that the report was indicated.

"Department's representative" means the person who is responsible for presenting the Department's case.

"Expunge", as used in this Part, means removing identifying information regarding the subjects of an indicated child abuse or neglect report from the computer file of the State Central Register and from paper records kept by the Department.

"Final administrative decision" means the Department's final decision, order or determination on an appealed issue rendered by the Director in a particular case, which affects the legal rights, duties or privileges of participants and which may be further appealed to the circuit court under the Administrative Review Law.

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Neglected Child" means any child whose parent or other person responsible for the child's welfare withholds or denies nourishment or medically indicated treatment including food or care denied solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise does not provide the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), including adequate food, clothing and shelter: or who is abandoned by

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his or her parents or other person responsible for the child's welfare or who is a newborn infant whose blood or urine contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1991, ch. 23, par. 2053). Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary.

"Person Responsible for the Child's Welfare" means the child's parent; guardian; foster parent; operator, supervisor, or employee of a public or private residential agency or institution; or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, and volunteers or support personnel in any setting where children may be subject to abuse or neglect. (Ill. Rev. Stat. 1991, ch. 23, par. 2053)

"State Central Register" means the specialized Department unit which receives and transmits reports of alleged child abuse and neglect.

"Subject of Report" means any child reported to the State Central Register, and his or her parent, personal guardian, or other person responsible for the child's welfare, who is also named in the report. (Ill. Rev. Stat. 1991, ch. 23, par. 2053)

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists. (Ill. Rev. Stat. 1991, ch. 23, par. 2053)

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Section 336.30 Who May Appeal

- a) Any person who has been named as a subject in a report of child abuse or neglect has the right to appeal any of the action(s) or inaction(s) listed in Section 336.40 of this Part, personally or by:
 - 1) the appellant's authorized representative. Such authorization must be in writing and notarized. The representative may be legal counsel, a relative, a friend or other spokesperson; or
 - 2) an individual legally authorized to act on behalf of the appellant when the appellant is incompetent, incapacitated, or otherwise unable to speak for him/herself. A certified copy of the court order authorizing the individual to act on behalf of the appellant must be provided.
- b) If an appellant has an authorized representative or an individual legally acting on the appellant's behalf, that representative or individual may exercise the rights of the appellant in the appeal process. These rights include the right to:
 - 1) review and copy record material;
 - 2) receive Department notices;
 - 3) speak in the administrative hearing process; and
 - 4) take any other actions permitted an appellant during the appeal process.

Section 336.40 What May Be Appealed

The following issues may be appealed through the appeal process:

- a) an indicated finding of child abuse or neglect;
- b) failure to remove an unfounded report of child abuse or neglect from the State Central Register within 30 calendar days of the determination that the report is unfounded, unless the report is being retained as a false report per the subject's request;
- c) refusal or failure to grant a request for an internal child protection review within the time frames specified in this Part, for the purpose of expunging or amending information contained in the child abuse and neglect investigation record or removing the record entirely; and
- d) refusal or failure after an internal review to expunge, amend or remove information about an indicated report of child abuse or neglect that the appellant believes is inaccurate or maintained in a manner inconsistent with the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1991, ch. 23, par. 2051 et seq.).

Section 336.50 What May Not Be Appealed

The administrator of the child protection internal review system will decide whether an issue is appropriate for an internal review pursuant to Section 336.40 of this Part. The Administrator of the Administrative Hearing Unit will decide whether an issue is appropriate for the administrative hearing process pursuant to Section 336.40 of this Part. The following circumstances are not appropriate for the appeal process:

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- a) when the Department has already made a final administrative decision on the issue as a result of a previous appeal;
- b) when the issue is not regarding a child abuse or neglect report as defined in 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect. These issues may be appealed through a different appeal and administrative hearing process as identified in 89 Ill. Adm. Code 435, Administrative Appeals and Hearings;
- c) when a court has made a judicial decision on the issue being appealed or a judicial finding of child abuse or neglect has been made and the appellant is requesting that the record of the report of child abuse or neglect be expunged, amended or removed; or
- d) when the 60 day time frame for requesting an appeal has expired. Section 336.80 of this Part, The Appeal Process, explains how to calculate the 60 day timeframe.

Section 336.60 The Right to Appeal and Receive a Fair Hearing

- a) The Department shall inform the subjects of a child abuse or neglect report of the right to a child protection internal review and administrative hearing related to the Department's decision. The Department shall provide clear instructions on how to request a child protection internal review and receive an administrative hearing, if appropriate. This explanation shall be provided within 10 days after the investigation of a report of child abuse or neglect has been completed and the final determination has been entered into the State Central Register.
- b) This explanation shall be provided in writing in the subject's primary language.
- c) When requested, Department staff shall assist the subjects of a child abuse or neglect report in preparing a written appeal.
- d) The Department may not hinder an appellant who wishes to proceed with the appeal process.

Section 336.70 Notices of Department Decisions

- a) Required Notices
Subjects have the right to receive a timely written notice of Department decisions as to whether a child abuse or neglect report is "indicated" or "unfounded." In order for a notice to be considered "timely", it must be mailed within 10 calendar days after the final determination has been entered into the State Central Register.
- b) Content of Notices
Each required notice of a Department decision shall:
 - 1) include a specific statement whether the Department has determined the report is indicated or unfounded as a result of an investigation;
 - 2) state that a Department review of an indicated decision is available;
 - 3) state that, if a review of the Department's decision is de-

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sired, it must be requested in writing within 60 calendar days of the postmark on the notice; and

- 4) provide the name and address of the individual who must be contacted in order to request a review of the Department's decision.
- c) Written Notices
All written notices used in this Part shall be in the appellant's primary language.
- d) The following notices shall be hand delivered with a certificate of delivery or sent by certified mail, return receipt requested, to "the addressee only":
 - 1) the Department's decision that a report is indicated.
 - 2) the final administrative decision of an administrative hearing.
- e) All other notices referenced in this Part shall be sent by regular mail.

Section 336.80 The Appeal Process

- a) There are two levels of appeal in the appeal process. The two levels are:
 - 1) a child protection internal review; and
 - 2) an administrative hearing.
- b) To begin the appeal process the subject shall request in writing that the Department review its decision. The request must be mailed within 60 calendar days of the postmark on the notice of the Department's decision that the report was indicated. The request must be submitted to the Department staff person designated in the written notice.
- c) If the appellant is unable to request an appeal in writing, the Department shall help the appellant put the request in writing upon request.

Section 336.90 Child Protection Internal Review

- a) A child protection internal review is required before an administrative hearing is granted unless the appellant has requested a child protection internal review and the request has been denied (e.g., the request for appeal was not received within required timeframes).
- b) Upon receipt of the request for an appeal, the Department shall send the appellant, via certified mail, a child protection appeal form with a copy of the investigative file from which confidential information has been deleted in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department.
- c) The appeal form shall contain space for the appellant to submit a brief written summary which may include additional information for the Department's consideration as to why the Department should expunge or amend the report in the State Central Register.
- d) The appellant shall return the appeal form to the Department within 45

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calendar days of the postmark date that the form was mailed to the appellant.

- e) The Department has 30 calendar days from the date the appeal form is returned to:

- 1) review the appeal form and the investigative file;
- 2) contact the appellant, if necessary; and
- 3) reach a decision on the appellant's request that the record be amended, expunged or removed.

Section 336.100 Notice of Internal Review Decision

- a) The child protection internal review administrator shall send the appellant a notice which explains the facts and information considered during the child protection internal review and explains the decision. The notice shall explain that:

- 1) the decision affirms the original decision, amends the indicated report, or reverses the indicated finding;
- 2) if the issue has not been resolved to the appellant's satisfaction, an administrative hearing may be requested by contacting the Administrator of the Administrative Hearing Unit; and
- 3) the request to appeal the decision of the internal review to an administrative hearing shall be made in writing. This request must be received by the Administrator of the Administrative Hearing Unit within 15 calendar days of the postmark on the notice of the child protection internal review administrator's decision.
- b) If the decision of the child protection internal review reverses the indicated finding, a notice of the decision shall be sent to those listed in Section 336.150(c) and (d) of this Part.
- c) If the decision of the child protection internal review upholds the indicated finding, and the appellant does not exercise the right to appeal the decision to an administrative hearing within the time frames specified in Section 336.110(a)(2) of this Part, a notice of the decision shall be sent to those listed in Section 336.150(c) and (d) of this Part.

Section 336.110 The Administrative Hearing

- a) The Administrator of the Administrative Hearing Unit may grant a request for a hearing only when:

- 1) the original written request for appeal was received by the Department within 60 calendar days of the postmark of the notice to the appellant that the report was indicated;
- 2) the written request for an administrative hearing was received by the Department within 15 calendar days of the postmark of the notice of the child protection review decision; and
- 3) the issue is within the jurisdiction of the Administrative Hearing Unit as set forth in Sections 336.30 and 336.40 of this

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- b) The Administrator of the Administrative Hearing Unit may dismiss a request for an administrative hearing for the following reasons only:
- 1) the child protection internal review has not been exhausted;
 - 2) the appeal has been withdrawn in writing;
 - 3) the appeal has been abandoned. Abandonment shall be deemed to have occurred if the appellant, the appellant's authorized representative, or an individual legally authorized to act on behalf of the appellant fails to appear at the hearing, and the appellant does not have an adequate cause for failing to appear. Adequate cause for failing to appear at an administrative hearing may include, but is not limited to:

- A) death in the family of the appellant or in the family of the appellant's representative.
 - B) serious illness of the appellant or the appellant's representative or serious illness in either person's immediate family.
 - C) transportation difficulties that make it impossible for the appellant or representative to appear at the hearing.
 - D) failure of the Department to give notice of the hearing to the appellant or representative at the last known address available to the Department. However, it is the appellant's responsibility to keep the Department updated on any change of address;
 - 4) the issue is not within the jurisdiction of the Administrative Hearing Unit as set forth in Sections 336.30 and 336.50 of this Part;
 - 5) the request for the appeal was not received within 60 calendar days of the postmarked date of the notice that the report was indicated;
 - 6) the request for an administrative hearing was not received within 15 calendar days of the postmarked date of the notice of the child protection administrator's decision; or
 - 7) the appellant failed to notify the Administrator of the Administrative Hearing Unit of a change of address, and a notice of the administrative hearing cannot be delivered.
- c) The Department shall provide written notice of the decision to grant or deny the request for an administrative hearing within 20 calendar days of receipt of the request for an administrative hearing. If the Administrator of the Administrative Hearing Unit finds that the issue is not appealable under this Part but can be appropriately heard through another appeal process, in accordance with 89 Ill. Adm. Code 435, Administrative Appeals and Hearings, the Department shall forward the appeal to the proper hearing authority and notify the appellant of this action.
- d) The Administrator of the Administrative Hearing Unit shall:
- 1) schedule the hearing at a date within 30 calendar days of the date the appellant's written notice stating that the child protection internal review did not resolve the issue to the

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- appellant's satisfaction;
- 2) ensure that the administrative hearing is scheduled at a time and place reasonably convenient for all parties. If the parties cannot agree to a reasonably convenient time and place, the administrator shall make this determination and proceed to schedule the hearing;
 - 3) provide a written notice to the appellant at least 15 calendar days before the scheduled hearing, which shall contain the following information:
 - A) the date, time and location of the hearing;
 - B) a statement that the appellant or appellant's representative's failure to appear at the hearing without adequate cause may be deemed an abandonment of the request, thus constituting a waiver by the appellant of the right to a hearing; and
 - C) a statement of the parties' rights during the appeal process.
- Section 336.120 Rights and Responsibilities in Administrative Hearings**
- a) An appellant may bring a representative, including legal counsel, to the hearing. Expenses of a representative or of an appellant's witnesses shall be paid by the appellant.
 - b) An appellant may request the Department employee who had direct involvement in the case or other persons who may have information relevant to the issues in dispute to attend the hearing by asking the administrator of the appeal hearing system to issue appropriate subpoenas. Witness fees and travel expenses for persons other than Department employees are the responsibility of the party requesting the subpoena.
 - c) Children under 14 years of age shall not be subpoenaed by either party to testify or be involved in the hearing process, unless the administrative law judge determines that the child's testimony or involvement is essential to a determination of the appeal. In making this determination the administrative law judge shall require a showing that there is no likelihood of inflicting emotional harm to the particular child (children) involved.
 - d) Any motions from the appellant or the Department shall be filed with the administrative law judge, at least 10 calendar days before the hearing. Copies shall be sent to the Department's representative and the appellant.
 - e) At the appellant's request, the Department shall provide an interpreter at no cost to the appellant if English is not the appellant's primary language or a sign interpreter if the appellant is hearing impaired.
 - f) Both the appellant and the Department have the right to examine and copy documents and other information to be used by either party and to receive a list of witnesses to be called by either party at the hearing by requesting them at least 10 calendar days before the

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- hearing. The administrative law judge may prohibit the introduction of the requested evidence if not provided within the time frame.
- g) During the administrative hearing, the appellant and the Department have the right to:
 - 1) present and question witnesses;
 - 2) present any information relevant to the issues;
 - 3) question or disprove any information, including an opportunity to question opposing witnesses, except as provided for in Section 336.130(b)(7) of this Part; and
 - 4) dispose of any disputed issue by mutually agreeing to a resolution any time prior to the conclusion of the administrative hearing.
 - h) In an administrative hearing concerning child abuse or neglect reports:
 - 1) the Department carries the burden of proof of justifying the refusal to amend, expunge or remove the record;
 - 2) the Department must show that credible evidence existed to support the indicated finding, according to Department Rules, 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect; and
 - 3) the administrative law judge has the authority to recommend changes in the child abuse and neglect record.

Section 336.130 The Administrative Law Judge

- a) Appointment of the Administrative Law Judge
The Administrator of the Administrative Hearing Unit shall select and the Director shall appoint a trained, impartial administrative law judge from the available pool to conduct the appeal hearing. The administrative law judge shall:
 - 1) be an attorney licensed to practice law in the State of Illinois;
 - 2) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law, including familiarity with Department rules, procedures and functions;
 - 3) not have been involved in the decision to take the action being appealed or have rendered legal advice to the decisionmaker on the issue; and
 - 4) not have a personal or professional interest which interferes with exercising objectivity or have any bias against the parties or issues appealed. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.
- b) Functions of the Administrative Law Judge
The administrative law judge shall have all authority allowed under the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.). This authority shall include, but is not limited to, the following:
 - 1) conduct a fair, impartial and formal hearing in which the strict rules of evidence do not apply;
 - 2) provide for the recording of the hearing;

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- 3) inform participants of their individual rights and their responsibilities;
- 4) conduct preliminary and prehearing telephone conferences, if necessary, between the parties and/or their attorneys to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;
- 5) take necessary steps to develop a full and fair record which contains all relevant facts;
- 6) administer an oath or an affirmation to all witnesses;
- 7) quash or modify subpoenas for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
- 8) conduct in-camera reviews with alleged child abuse or neglect victims, as is authorized in the Juvenile Court Act of 1987 (Ill. Rev. Stat. 1991, ch. 37, par. 802-18). For the purpose of this Part, an in-camera review means that the alleged abuse or neglect victim may testify outside the presence of the alleged perpetrator, with only the administrative law judge, Department and appellant's representative or attorney and court reporter, if applicable, present. If the appellant is unrepresented, the administrative law judge may continue the hearing to give the appellant the opportunity to obtain representation for the in-camera hearing;
- 9) allow into evidence previous statements made by the child relating to abuse or neglect as hearsay exceptions;
- 10) preserve all documents and evidence for the record;
- 11) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
- 12) order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct which disrupts the hearing;
- 13) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to, the submission of briefs, memoranda of law, affidavits or post hearing briefs; and
- 14) present a written opinion and recommendation to the Director within 30 calendar days after the record of the administrative hearing is completed or transcript is received. This report shall include a recommended decision on whether there is credible evidence of abuse or neglect based on information considered at the hearing contained in the administrative record. The opinion shall contain a summary of the evidence, findings of fact, conclusions of law and a recommendation.

Section 336.140 Combined or Separate Hearings

- a) When a common issue is raised, the Department may respond to requests

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for hearings from more than one appellant by conducting a single group hearing. The Department may also combine all issues raised by a single petitioner in one hearing. In all group hearings, the appeal system in this Part shall apply. Individuals shall be permitted to present their own cases separately.

- b) The Department, if required for the fair, efficient administration of the hearing or to prevent possible prejudice to the appellant, may sever any party or any issue from the combined hearing. The severed party or issue shall be heard separately.

Section 336.150 Final Administrative Decision

- a) Making the Final Administrative Decision
The Director of the Department shall receive the recommended decision from the administrative law judge and shall agree, disagree, or modify the recommended decision based upon the credible evidence standard. The Director's decision is the final administrative decision of the Department. If the decision requires corrective action by the Department, the Director shall appoint a Department staff person who shall be responsible for assuring compliance with the decision.
- b) Notice of the Availability of Judicial Review
The Department shall include a notice to appellants as part of the final administrative decision. This notice shall include the name of the person responsible for compliance, if applicable, and shall advise the appellants that, under the provisions of the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, par. 3-101 et seq.), they may seek judicial review of the Department's decisions if it is unfavorable to them, within the statutory time frame.
- c) Who Receives Copies of the Final Administrative Decision
The appellant or authorized representative, the Department child protection investigation unit, the Department's representative, the administrative law judge (except for notices of internal review decisions), the Administrator of the Administrative Hearing Unit, and the State Central Register shall receive a copy of the final administrative decision.
- d) Notifying Others of the Decision
The following persons shall receive a notice of the final administrative decision:
 - 1) parents or personal guardians of the child victim(s) if they are not the same as the appellant;
 - 2) the mandated reporter who originally made the report of child abuse or neglect;
 - 3) the juvenile court judge and guardian ad litem (when a state ward is involved);
 - 4) the Illinois Department of Professional Regulation, District, regional and private school superintendents and the State Board of Education when they have been notified that an appeal has been filed in accordance with 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect, Section 300.140;

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- 5) administrators of child care facilities and Department licensing staff when the appellant is an employee of a child care facility; and
- 6) supervisors or administrators notified in accordance with 89 Ill. Adm. Code 300.100(i).

Section 336.160 Records of Administrative Hearings

The permanent record of the administrative hearing and the final administrative decision shall be maintained by the Administrator of the Administrative Hearing Unit. All hearing decisions shall be available for public inspection during regular business hours. However, confidential information shall be deleted in conformance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, and state and federal laws and rules and regulations on confidentiality.

Section 336.170 Severability of This Part

If any Court of competent jurisdiction finds that any Section, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

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NOTICE OF ADOPTED REPEALER

- 1) The Heading of the Part: Review and Appeal Process
- 2) Code Citation: 89 Ill. Adm. Code 309

3) Section Numbers: Adopted Action:

309.1 Repeal
 309.2 Repeal
 309.3 Repeal
 309.4 Repeal
 309.5 Repeal
 309.4 Repeal
 309.5 Repeal
 309.6 Repeal
 309.7 Repeal
 309.8 Repeal
 309.9 Repeal
 309.10 Repeal
 309.11 Repeal
 309.12 Repeal
 309.13 Repeal
 309.14 Repeal
 309.15 Repeal
 309.16 Repeal
 309.17 Repeal
 309.18 Repeal
 309.19 Repeal
 309.20 Repeal
 309.21 Repeal
 309.22 Repeal
 309.23 Repeal

- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 23, par. 2057.16.

- 5) Effective Date of Adopted Repealer: January 15, 1993

- 6) Does this rulemaking contain an automatic repeal date: Yes ☒ No ☐
 If so, please specify date:

- 7) Will this proposed repealer contain incorporations by reference? No
 If "yes," was a copy of the approval form issued by JCARE attached to this rulemaking?

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NOTICE OF ADOPTED REPEALER

- 8) Date Filed in Agency's Principal Office: January 15, 1993.
- 9) Notice(s) of Proposal Published in Illinois Register:
16 Ill. Reg. 7982, May 29, 1992
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: These rules which describe the appeal process for both child abuse and neglect investigation findings and for child welfare service decisions are being repealed in order to give each type of appeal process its own separate set of rules: 89 Ill. Adm. Code 336, Appeal of Child Abuse and Neglect Investigation Findings, and 89 Ill. Adm. Code 337, Service Appeal Process.
- 16) Information and questions regarding this repealer shall be directed to:

Name: Jacqueline Nottingham, Chief

Address: Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe
Springfield, Illinois 62701-1498

Telephone: 217/524-1983

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

- 1) The Heading of the Part: Service Appeal Process
- 2) Code Citation: 89 Ill. Adm. Code 337
- 3) Section Numbers: Adopted Action:
337.10 New Section
337.20 New Section
337.30 New Section
337.40 New Section
337.50 New Section
337.60 New Section
337.70 New Section
337.80 New Section
337.90 New Section
337.100 New Section
337.110 New Section
337.120 New Section
337.130 New Section
337.140 New Section
337.150 New Section
337.160 New Section
337.170 New Section
337.180 New Section
337.190 New Section
337.200 New Section
337.210 New Section
337.220 New Section
337.230 New Section
337.240 New Section
337.250 New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch.23, pars. 5004 and 5005
- 5) Effective Date of Rules: January 15, 1993
- 6) Does this rulemaking contain an automatic repeal date: Yes ☒ No ☐
If so, please specify date:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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7) Do these rules contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 15, 1993

9) Notice(s) of Proposal Published in Illinois Register:

16 Ill. Reg. 7999, May 29, 1992

10) Has JCARE issued a Statement of Objections to this (these) rule(s)? No

11) Difference(s) between proposal and final version:

Section 337.10

In the last line of the second sentence "caretakers" was replaced by "caregivers".

Section 337.20

"Adequate Notice" - The word "element" was pluralized and the words "of this Part" were added after "Section 337.90 (c)".

"Appellant" - The word "in" was changed to "on".

"Child welfare services" - In the fourth line the words "handicapped/disabled" were deleted immediately before "homeless". The labels i), ii), iii) and iv) were removed from the definition. Immediately following the statutory language in italics, the following citation was added: "(Ill. Rev. Stat. 1991, ch. 23, par. 5005)". In the paragraph beginning "These services include", the word "caretaker" was changed to "caregiver".

"Family" - In the first line the comma after "parents" was deleted and "provided a court has not terminated parental rights" was placed in parentheses.

"Imminent risk of harm" - In the first line an apostrophe was placed after the word "individuals" and the word "omissions" was added immediately after "actions" and the words "or seriously jeopardize the " were added immediately prior to "physical". A comma was deleted after "mental health".

"Individual legally acting on a person's behalf" - In the last line "him" was changed to "himself" and "herself" was changed to one word.

"Relative" - This definition was moved to its proper alphabetical order.

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"Timely written notice" - The words "of this Part" were added to the end of the sentence.

Section 337.30

(b) - In the 7th line after "date of Appeal.", the following sentence was added, "A determination will be made whether the issues are appropriate for emergency review. If they are appropriate.". The capital "T" of the next word, "the" was changed to lower case.

(b) (2) - The title of (b) (2) was changed to "Continuing Services Pertaining to Changes in Family Visitation and Placement During the Service Appeal". In addition the words "imminent risk of" were added immediately before "harm" where ever the word "harm" appears.

(c) - In the third sentence, immediately after "child", the words "or otherwise" were deleted; immediately after "work standards", "or" was replaced with "and"; and the word "policy" was replaced with "administrative rules".

Section 337.40

(a) - "the Department is responsible to " was changed to "the Department's responsibilities are to:"

(a) (1) - "of this Part" was added after "337.90".

(b) - " the provider agency is responsible to" was changed to "the provider agency's responsibilities are to:"

(b) (1) - "of this Part" was added after "337.90".

(b) (3) - A new subparagraph (3) was added to read, "obtain a determination from the Department whether the children are at imminent risk of harm". Former subparagraphs (3) through (8) were renumbered to (4) through (9).

Section 337.50

(a) - In the second sentence after "be provided", the words "to children and families" were added. To the end of subsection (a) was added the following sentence - "Instructions shall be provided to foster parents and relative caregivers upon placement of a child, when services are requested and denied or a decision has been made to change services upon the movement of a child from one substitute care setting to another."

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counseling; and

- D) a change in the child's substitute care placement. This does not include placement with the biological or adoptive parent(s), placements with a family for the purposes of adoption as ordered by a court, or return to an unrelated individual(s) with whom the child resided prior to entering substitute care."

(b) (3) - The original (b) (2) was renumbered to (3).

Section 337.80

In the first paragraph "of this Part" was inserted after "337.70"

(c) - The "or" before "89 Ill. Adm. Code 303" was deleted.

Section 337.90

(a) (1) - "of this Part" was added after "337.60" and after "337.70"; before the words "subsection (c)", "337.90" was deleted and after "subsection (c)" the word "below" was added.

(a) (2) - In the first sentence after the word "harm", "if the action is not taken immediately" was deleted. In the second sentence the words "dispense with" were replaced by "omit" and after the words "date of action", the word "and" was replaced by "that".

(b)(1) - The words "child or family" were deleted.

Section 337.110

(a) (1) - In the second sentence of (1), "Rule" was changed to "Part".

(a) (5) - "of this Part" was added after "337.160".

Section 337.120

"of this Part" was added after "337.20"; in the last line of the section "the " was inserted before "appellant".

Section 337.140

(b) - In the 2nd line "that" was replaced by "who".

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Section 337.60

(a) - "of this Part" was inserted after "337.70"

(a) (3) and (4) - "caretakers" was changed to "caregivers" in both (3) and (4).

(b) (6) - In the second line after "parties", the following words were added - "including the guardian ad litem for a child"; To the end of the last sentence was added - "unless the appointment is as a Guardian Ad Litem in Juvenile Court."

Section 337.70

(a) (1) - In the third line after "families", "or" was deleted and a comma was inserted and after "children" the following was inserted - " or an individual legally appointed to represent a minor, incompetent or incapacitated person".

(a) (5) - In the second line after "plan", the following was added - " with reasonable promptness or within the written time frames as provided in the service plan."

(a) (9) - this paragraph was deleted .

(a) (10) - this paragraph was renumbered to (a) (9).

(b) - "caretakers" was changed to "caregivers"

(b) (1) and (1) (A) - "and relative caretakers" was eliminated from both places.

(b) (1) (D) - In the 5th line immediately after adoption, the words "as ordered by a court".

(b) (2) - A new subsection (b) (2) was added, which reads " Relative caregivers may appeal the following issues:

A) decisions made by the Department or its provider agency that directly affect the relative caregiver, such as payment issues as defined in 89 Ill. Adm. Code Part 359, Authorized Child Care Payments;

B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;

C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family

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(d) - In the first line "or" was deleted; in the 7th and 10th lines after "client", "or" was replaced by "and".

Section 337.150

In the first paragraph on the second line the "s" was deleted from the words "date, time and place"; the word "initial" was inserted immediately prior to "service appeal"; the "s" was deleted from "proceeding"; the words "appropriate Department field and regional offices, the Administrator of the Administrative Hearings Unit" were deleted; after "family", "the guardian ad litem upon written request and any other" was inserted; "of this Part" was inserted after "337.60". In addition the last sentence of the paragraph which began "If any of the above" was deleted.

Section 337.160

(a) - At the end of the first sentence after "denied", the following parenthetical phrase was added - "(e.g. requests for continuances without adequate cause)".

(b) - After "convenient", the following was added - "for the parties and the administrative law judge".

Section 337.170

(a) - In the third line "or otherwise" was deleted and a comma was inserted after "child"; in the 4th line "or" was replaced by "and"; in the last line "policy" was replaced by "administrative rules".

(b) (3) - "Section 337.170" was replaced by "Subsection" and "below" was inserted after "(g)".

In the last paragraph of "(b) 'in which'" was deleted.

(c) - In the first line immediately before "attendance", "the" was replaced by "a person's" and after "hearing", "if the" replaced "of any"; in the second line "who" was deleted.

Section 337.180

(b) (8) - A new paragraph (8) was added which reads - "conduct in-camera reviews with children when requested by a child or a child's authorized representative. For purposes of this Part, an in-camera review means that the child may testify outside the presence of the appellant, with only the administrative law judge, Department and appellant's representative or attorney and court reporters, if applicable, present. If the appellant is unrepresented, the administrative law judge may continue the hearing to

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give the appellant the opportunity to obtain representation for the in-camera hearing;".

Section 337.220

In the second line after "recommendation", the following language was added - "based upon the best interests of the child, in accordance with professional social work standards and Department administrative rules".

Section 337.230

To the end of the first sentence "of this Part" was added.

In the 6th line the word "applicable" was replaced by "if they participated in the appeal and request it".

Throughout the rules wherever they occurred the terms "administrative law judge" and "final administrative decision" were changed to lower case letters and the word "Unit" in "Administrator of the Administrative Hearings Unit" was capitalized.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: These rules describe how children, their parents and foster parents may appeal child welfare service decisions made by the Department.

16) Information and questions regarding these rules shall be directed to:

Name: Jacqueline Nottingham, Chief

Address: Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe
Springfield, Illinois 62701-1498

Telephone: 217/524-1983

The full text of the adopted rules is as follows:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 337

SERVICE APPEAL PROCESS

Section	Purpose
337.10	Definitions
337.20	The Service Appeal Process
337.30	Department and Provider Agency Responsibilities on Appealable Issues
337.40	The Right to a Service Appeal
337.50	Who May Appeal
337.60	What May Be Appealed
337.70	What May Not Be Appealed
337.80	Notices of Department or Provider Agency Decisions
337.90	How to Request a Service Appeal
337.100	Grounds for Dismissal of a Service Appeal Request
337.110	Time Frames for the Service Appeal Process
337.120	Continuing Services During the Service Appeal Process
337.130	Confidentiality During the Service Appeal Process
337.140	Notice Concerning a Service Appeal
337.150	Abandonment of a Service Appeal
337.160	Fair Hearing Appeal Rights
337.170	The Administrative Law Judge
337.180	Record of a Fair Hearing
337.190	Combined Hearings
337.200	Continuances Requested in a Combined Hearing
337.210	The Final Administrative Decision
337.220	Who Receives a Copy of the Final Administrative Decision
337.230	Notice of the Availability of Judicial Review
337.240	Severability of This Part
337.250	

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, pars. 5004 and 5005).

SOURCE: Adopted at 17 Ill. Reg. 1046, effective January 15, 1993

Section 337.10 Purpose

These rules govern the service appeal process for child welfare services provided either directly or through a provider agency. Persons who may appeal through this process may include persons requesting or receiving services, and as governed by this Part, foster parents, relative caregivers, and relatives denied the placement of a related child.

Section 337.20 Definitions

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"Adequate Notice" means a notice which contains all of the elements identified in Section 337.90 (c) of this Part.

"Administrative Hearings Unit" means the Department's unit responsible for receiving requests for and acting upon a service appeal and conducting fair hearings on appeal.

"Administrative law judge" means an attorney who is appointed by the Director of the Department and who is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for receiving requests for a service appeal and for coordinating the fair hearings.

"Appellant" means the person who requests a service appeal, or on whose behalf a service appeal is requested.

"Authorized representative" means a person authorized in writing by the appellant to assist the appellant in the appeal process. If the appellant is unable to reduce such authorization to writing, the Department shall assist the appellant in doing so. The representative may be legal counsel or other spokesperson.

"Child welfare services" means public social services which are directed toward the accomplishment of the following purposes:

protecting and promoting the welfare of all children, including homeless, dependent, or neglected children;

preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, and preventing breakup of the family where the prevention of child removal is desirable and possible;

restoring to their families children who have been removed by the provision of services to the child and the families;

placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate;

assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption;

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providing supportive services and living maintenance which contributes to the physical, emotional and social well-being of children who are pregnant and unmarried;

providing shelter and independent living services for homeless youth; and

placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, or in a licensed shelter facility. The Department is not required to place or maintain children:

who are in a foster home; or

who are developmentally disabled, as defined in the Mental Health and Developmental Disabilities Code; or

who are female children who are pregnant, pregnant and parenting or parenting; or

who are siblings,

in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. (Ill. Rev. Stat. 1991, ch. 23, par. 5005)

These services include but are not limited to: counseling, advocacy, day care, homemaker, emergency caregiver, family planning, adoption, visitation, placement, child protection and information and referral.

"Date of action" means the effective date of the action or proposed action by the Department or provider agency which resulted in the appeal.

"Date of appeal" means the postmark date or date of receipt of appellant's written request for an appeal, whichever is earlier, at the address specified in the notice.

"Date of notice" means the date on which the appellant receives written notice of the Department's intended action or decision or the date on which the appellant learns of the intended action or decision, if a written notice was not provided.

"Day care services" means care provided to children for less than 24 hours per day in facilities requiring licensure under the Child Care Act of 1969 (Ill. Rev. Stat. 1991, ch. 23, par. 2211 et seq.) in

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facilities exempt from licensure, in the home(s) of relatives, or in their own home.

"Department representative" means the designated individual responsible for presenting the Department's position in an emergency review and fair hearing.

"Emergency review" means a limited review of the actions or decisions of the Department or provider agency which may adversely affect an individual or individuals served by the Department. An emergency review provides for an interim decision pending a fair hearing.

"Fair hearing", as used in this Part, means a formal review of the action or decision of the Department or provider agency to determine whether such action or decision was in compliance with applicable laws and rules and in the best interests of the child.

"Family" means the biological or adoptive parents (provided a court has not terminated parental rights), legal guardian, or any relative who has assumed custody and control of the child in the absence of the child's biological or adoptive parents.

"Final administrative decision" means the Department's final decision, order, or determination on an appealed issue rendered by the Director in a particular case which affects the legal rights, duties or privileges of appellants and which may be appealed in a circuit court under the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, par. 3-101).

"Imminent risk of harm" means that individuals' actions, omissions or conditions endanger the life, or seriously jeopardize the physical or mental health or safety of themselves or others, if protective action would not be taken immediately.

"Individual legally acting on a person's behalf" means an individual who has been appointed by a court to act on behalf of a person when the person is incompetent, incapacitated, or otherwise unable to speak for himself or herself.

"Mediation" means a meeting open to all parties affected by the decision being appealed to attempt agreement on the issue in dispute with a mediator, who assists the parties in resolving issues and drawing up an agreement.

"Mediator" means a neutral third party appointed by the Director of the Department who conducts the mediation and assists the parties in resolving issues and drawing up an agreement.

"Parties" means the Department or its agents and those persons who

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have appealed the service decision(s) made by the Department or its agents.

"Preponderance of the evidence" means the greater weight of the evidence or evidence which renders a fact more likely than not.

"Provider agency" means an agency offering case management and/or casework services through a signed contract with the Department for paid services.

"Relative" means any person who has any of the following currently existing relations to a child by blood or adoption: grandfather, grandmother, great-grandfather, great-grandmother, great-uncle, great-aunt, brother, sister, uncle, aunt, nephew, niece or first cousin.

"Request for an appeal" means the written request by an appellant for a fair hearing to review an action taken or a decision made by the Department or a provider agency on behalf of the Department. If the appellant is unable to request an appeal in writing, the Department or provider agency shall help the appellant put the request in writing.

"Reviewer" means the person appointed by the Department to conduct an emergency review.

"Service appeal process" means the appeal system offered by the Department to review appealable service issues raised by appellants.

"Services" means child welfare or day care services, including placement services or benefits provided by the Department or its provider agencies under Titles IV and XX of the Social Security Act (42 U.S.C. Section 601 et seq. and 1397 et seq.) or the laws of the State of Illinois.

"Stay of action" means the action or decision made by the Department or its provider agency will not be implemented pending an emergency review or final administrative decision by the Department.

"Timely written notice" means a notice which complies with the requirements of Section 337.90 (b) of this Part.

Section 337.30 The Service Appeal Process

The service appeal process for the Department of Children and Family Services consists of a mediation, which is optional, and a fair hearing. Initiation of a service appeal does not preclude ongoing discussion between the parties to resolve the appealed issues. If mediation resolves the issues, an agreement is drawn up with the assistance of the mediator and signed by the parties. In some instances the issue on appeal is too immediate to await the final

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administrative decision on the action. An emergency review may be held in lieu of mediation on the specific issues, and an interim decision will be issued by the reviewer pending the fair hearing and final administrative decision.

a) Mediation

1) The Department shall offer mediation to an appellant within 30 calendar days from the date of appeal in an attempt to resolve his or her issues. The appellant may accept or reject an offer to participate in mediation. No issues addressed and determined by an emergency review may be addressed in mediation. If mediation is successful, an agreement is drawn up, with assistance by the mediator, and signed by the parties. This constitutes a resolution of the fair hearing, but the appellant may reinstate the request for hearing if the agreement is violated.

2) If the dispute is not resolved in mediation, or if the appellant rejects the mediation agreement and the Department receives written notice of this rejection at least 15 calendar days after the mediation session, the appellant may then proceed to the fair hearing.

3) The individual conducting the mediation shall be trained as a mediator and shall have no prior involvement in the case.

4) Any party participating in mediation shall be prohibited from subpoenaing the mediator or documents developed during the mediation process in any subsequent proceeding.

b) Emergency Review

An emergency review allows for an interim decision pending a fair hearing and can be requested by a party. The request for an emergency review must be in writing and shall be submitted to the Bureau of Quality Assurance, Department of Children and Family Services, Suite 6-2000, 100 West Randolph, Chicago, Illinois 60601. The emergency review must be requested within ten calendar days of the date of an appeal. A determination will be made whether the issues are appropriate for emergency review. If they are appropriate, the Department shall schedule an emergency review and the reviewer shall issue a decision, which shall include any corrective orders, within ten calendar days from the date of the request for emergency review. The Department shall implement the order within five calendar days from the date the decision was issued by the reviewer. An emergency review is held to consider only the following issues on appeal:

1) Lack of Timely Notice Due to Imminent Risk of Harm
A party may request an emergency review within ten calendar days of the date of appeal on any issue where the Department or provider agency has taken action without timely notice because the child was determined to be at imminent risk of harm. The reviewer shall consider only whether imminent risk of harm existed to justify the Department or provider agency action without timely notice. If the reviewer determines imminent risk of harm did not exist, the reviewer shall order corrective action.

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- 2) Continuing Services Pertaining to Changes in Family Visitation and Placement During the Service Appeal
- Where services pertaining to the family visitation plan and changes in placement remain unchanged because an appeal has been requested within ten calendar days of the date of notice, a party may request an emergency review, if that party has reasonable cause to believe that imminent risk of harm to the child will result if services remain unchanged during the appeal process. The only issue to be considered by the reviewer is whether imminent risk of harm to the child is likely to result from the stay of action. If the reviewer determines imminent risk of harm to the child is likely to result, the reviewer may order corrective action.

c) Fair Hearing

At a fair hearing, the administrative law judge conducts a hearing in which the Department and all parties may present evidence supporting their position. The administrative law judge then makes a recommendation to the Director of the Department based on the evidence presented at the hearing. The burden of proof shall be on the Department to show by a preponderance of the evidence that the decision made was in the best interests of the child, in accordance with professional social work standards and Department administrative rules.

Section 337.40 Department and Provider Agency Responsibilities on Appealable Issues

The Department or provider agency which made the decision, or intends to take the action being appealed, shall be responsible as follows.

- a) When the Department is the service provider, the Department's responsibilities are to:
- 1) provide timely and adequate notice as required in Section 337.90 of this Part;
 - 2) make a determination whether the children are in imminent risk of harm;
 - 3) provide continuing services when there is a stay of action and reinstate services when the decision is made to do so;
 - 4) within 15 calendar days from the date of appeal, prepare and submit to the Administrator of the Administrative Hearings Unit and the appellants a written summary of the intended action or action already taken. Such summary shall include a statement and specific citation of the law or policy, reasons for the action, and a summary of the facts supporting the action;
 - 5) make available to the appellant the documents considered or created in taking the action(s) or reaching the decision(s) under appeal;
 - 6) provide, at the hearing, a staff person who is familiar with the case and proposed action(s) or decision(s) being appealed; and
 - 7) arrange for transportation or a telephone conference to ensure

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the child's participation or presence at the proceeding, if a child for whom the Department is legally responsible will participate in or attend any part of the appeal process. The Department shall bear the cost of the transportation or the telephone conference.

- b) When the provider agency is the service provider, the provider agency's responsibilities are to:

- 1) provide timely and adequate notice as required in Section 337.90 of this Part;
- 2) provide continuing services when there is a stay of action and reinstate services when the decision is made to do so;
- 3) obtain a determination from the Department whether the children are at imminent risk of harm;
- 4) conduct a review of the action(s) taken or decision(s) made prior to the emergency review or mediation. Such agency review shall be conducted by an administrator of the provider agency;
- 5) within 15 calendar days from the date of appeal, submit to the Administrator of the Administrative Hearings Unit and the appellants a summary of the outcome of the review. Such summary shall include a statement and specific citation of the law or policy, reasons for the action, and a summary of the facts supporting the action;
- 6) provide to the Department all information and records pertinent to the action(s) or decision(s) under appeal;
- 7) make available to the Department and the appellant the documents considered or created in reaching the decision(s) under appeal;
- 8) provide, at the hearing, a staff person who is familiar with the case and action(s) or decision(s) being appealed; and
- 9) arrange for transportation or a telephone conference to ensure the child's participation or presence at the proceeding, if a child for whom the Department is legally responsible will participate in or attend any part of the appeal process. The provider agency shall bear the cost of the transportation or the telephone conferences.

Section 337.50 The Right to a Service Appeal

- a) The Department or provider agency shall provide clear written instructions on how to request an appeal. These instructions shall be provided to children and families when the commencement or denial of services occurs, during the intake assessment period, when a decision has been made to change services, during the administrative case review, and at any time services are requested and denied. Instructions shall be provided to foster parents and relative caregivers upon placement of a child, when services are requested and denied or a decision has been made to change services or upon the movement of a child from one substitute care setting to another.
- b) Information and instructions regarding the appeal shall be provided in writing in the appellant's primary language.

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- c) If the appellant is unable to request a service appeal in writing the Department or provider agency shall provide assistance to ensure that the request is made in writing.
- d) The appeal may be filed by the appellant or his or her authorized representative.

Section 337.60 Who May Appeal

- a) The following persons may appeal decisions made by or on behalf of the Department in accordance with Section 337.70 of this Part:
- 1) families and children who receive child welfare services, either directly from the Department or through its provider agency;
 - 2) families and children requesting child welfare services from the Department;
 - 3) foster parents or relative caregivers who have care and custody of a child for whom the Department is legally responsible; or
 - 4) relatives denied placement of a related child for whom the Department is legally responsible.

- b) The appeal may be requested by:

- 1) families and children who receive child welfare services, either directly from the Department or through its provider agency;
- 2) families and children requesting child welfare services from the Department;
- 3) foster parents or relative caregivers who have care and custody of a child for whom the Department is legally responsible;
- 4) relatives denied placement of a related child for whom the Department is legally responsible;
- 5) the authorized representative of any of the above persons;
- 6) an individual who has been appointed by a court to legally act on behalf of the above parties including the guardian ad litem for a child; when monetary claims are at issue, an individual appointed by the court as administrator of the estate or a person acting in a similar capacity may appeal for the deceased person. A certified copy of the court's order must be provided as authorization to represent such persons unless the appointment is as a Guardian Ad Litem in Juvenile Court.

- c) If an appellant has an authorized representative or an individual legally acting on the appellant's behalf, that representative or individual may exercise the rights of the party in the mediation or emergency review and the fair hearing. These rights include the right to review and copy case materials pursuant to 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, to receive Department notices, to speak in the mediation or emergency review and the fair hearing, and to take any other actions permitted an appellant in this Part.

Section 337.70 What May Be Appealed

- a) By Families and Children

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Families and children may appeal the following issues:

- 1) the denial, in whole or in part, of child welfare or day care services in accordance with 89 Ill. Adm. Code 303, Access to and Eligibility for Day Care Services, requested by families, children, or an individual legally appointed to represent a minor, incompetent or incapacitated person or the failure of the Department or its provider agency to decide, within 30 calendar days of the date of the request, whether to grant or deny services requested by the parents or children;
 - 2) a decision to reduce, suspend or terminate services;
 - 3) the choice of a permanency goal or the denial of a request for a change in permanency goal;
 - 4) the failure to complete a service plan within 30 calendar days of case opening or the failure to review the service plan within the Department's specified time frames;
 - 5) the failure to provide services as specified in the service plan with reasonable promptness or within the time frames as provided in the service plan;
 - 6) the frequency or length of family visitation, or failure to arrange parent-child visits when the child is placed out of the home and parental rights have not been terminated, and the frequency or length of sibling visits when children are placed apart;
 - 7) a change in the placement of the child;
 - 8) the imposition of unnecessary services or conditions as part of a service plan;
 - 9) a denial of a relative's request for placement with that relative of a child for whom the Department is legally responsible.
- b) By Foster Parents and Relative Caregivers
- 1) Foster parents may appeal the following issues:
 - A) decisions made by the Department or its provider agency which directly affect the foster parent, such as payment issues, as defined in 89 Ill. Adm. Code 359, Authorized Child Care Payments;
 - B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;
 - C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family counseling; and
 - D) a change in the child's substitute care placement. This does not include placement with the biological or adoptive parent(s), relative(s), or sibling(s), placements for purposes of adoption as ordered by the court, or return to an unrelated individual(s) with whom the child resided prior to entering substitute care.
 - 2) Relative caregivers may appeal the following issues:

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- A) decisions made by the Department or its provider agency that directly affect the relative caregiver, such as payment issues as defined in 89 Ill. Adm. Code 359, Authorized Child Care Payments;
- B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;
- C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family counseling; and
- D) a change in the child's substitute care placement. This does not include placement with the biological or adoptive parent(s), placements for purposes of adoption as ordered by the court, or return to an unrelated individual(s) with whom the child resided prior to entering substitute care.
- 3) Foster parents and relative caregivers have the right to be heard by the Bureau of Quality Assurance on issues specified in 89 Ill. Adm. Code 305, Client Service Planning, Section 305.80, Decision Review, which issues are not appealable under this Part. However, they will not be considered a party to the service appeal on issues which may affect residual parental rights and responsibilities. These include, but are not limited to, issues regarding the child's return home, family visitation, the right to consent to adoption, the right to determine the minor's religious affiliation and other issues which do not directly affect the foster parents themselves or their roles as caregivers of the child. The residual rights and responsibilities of parents are further defined in Section 801-3 of the Juvenile Court Act of 1987 (Ill. Rev. Stat. 1991, ch. 37, par. 801-3).
- c) By Relatives
Relatives who are denied placement of a related child may appeal the denial.

Section 337.80 What May Not Be Appealed

The Administrator of the Administrative Hearings Unit will decide whether an issue is appropriate for fair hearing pursuant to Section 337.70 of this Part. Issues inappropriate for a fair hearing include, but are not limited to:

- a) When the sole issue is one of State or federal law regulating the automatic adjustment of services for classes of children and families;
- b) When the Department has already made a final administrative decision on the issue as a result of a previous appeal;
- c) When the issue is not a service issue as defined in 89 Ill. Adm. Code 302, Services Delivered by the Department, 89 Ill. Adm. Code 303, Access To and Eligibility For Day Care Services, 89 Ill. Adm. Code 304, Access To and Eligibility For Child Welfare Services, 89 Ill. Adm. Code 305, Client Service Planning, and 89 Ill. Adm. Code 359,

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- Authorized Child Care Payment. Such issues are to be appealed through a different appeal and administrative hearing process, as identified in 89 Ill. Adm. Code 435, Administrative Appeals and Hearings;
- d) When the issue regards only the Medical Assistance Program under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.). Appeal requests regarding Title XIX services should be sent to the Department of Public Aid.
- e) When a court has made a judicial determination or issued an order on the issue being appealed.

Section 337.90 Notices of Department or Provider Agency Decisions

a) Required Notices

- 1) Persons who may appeal, pursuant to Section 337.60 of this Part, have the right to receive a timely and adequate written notice of Department or provider agency decisions. This notice may be in the form of a completed service plan provided the service plan includes, either in the case plan or through additional documents, all of the elements required in an adequate notice (subsection (c) below). Such notice shall be provided by the entity making the decision. A timely and adequate written notice is required on decisions that are appealable under Section 337.70 of this Part.
- 2) Notices need not be "timely" in situations where a child is considered to be in imminent risk of harm. In situations where the Department assessed a child to be in imminent risk of harm, the Department may omit "timely written notice", but shall send adequate written notice no later than the date of the action that shall include a statement explaining why timely notice was not provided.
- 3) Written notice shall be in the appellant's primary language.

b) Timely Written Notices

A written notice is considered "timely" when mailed within the following time frames:

- 1) within 30 calendar days of the request for child welfare or day care services;
- 2) at least ten calendar days before an action to reduce, suspend or terminate services, or before implementing a critical decision in situations where the Department does not consider the child in imminent risk of harm;
- 3) within 30 calendar days of the date the Department is given notice of the relative's request for placement of a Department ward.
- c) A written notice is considered "adequate" when it contains:
- 1) a specific statement of the action the Department or its provider agency intends to take;
 - 2) the proposed date for the intended action;
 - 3) the reasons and information supporting the action, and specific rules relied upon when taking the action;

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- 4) a statement advising the individual of the right to appeal the decision made by the Department or its provider agency or any part of the service plan with which he or she may not agree;
 - 5) an explanation of the service appeal process available;
 - 6) a statement that if an appeal of the decision made by the Department or its provider agency is desired, the appeal must be requested in writing within 45 calendar days of the date of notice;
 - 7) a statement that services will continue unchanged, unless the child is determined to be in imminent risk of harm if services continue unchanged, if an appeal of the decision made by the Department or its provider agency is requested within ten calendar days of the date of notice;
 - 8) if the issue is subject to emergency review, a statement advising the individual that an emergency review is available upon request;
 - 9) the name and address of the individual who must be contacted in order to request an appeal of the decision;
 - 10) a statement that the individual may have a lawyer, or other representative, witnesses, or other individuals having knowledge of the issues in dispute, present throughout the appeal process; and
 - 11) a statement informing the individual that he or she may submit a brief, written summary which may include additional information for consideration as to why the Department or provider agency should change its decision.
- d) Delivery of Notices
- 1) hand delivered with a certificate of delivery signed by the appellant or representative; or
 - 2) be sent certified or registered mail to such parties or their agents appointed to receive service of process in accordance with the requirements of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1010-25).

Section 337.100 How to Request a Service Appeal

- a) The appellant shall request a service appeal in writing within 45 calendar days of the date of notice. The appellant shall include in the request his or her name, address, and a statement of the intent to appeal. The appellant may also submit a general statement of the issue(s) appealed, a brief written summary stating his or her position regarding the Department's decision, and may include additional information for the Department to consider as to why the Department should change its decision.
- b) If the appellant wishes the services to remain unchanged during the time of the appeal, the appellant shall request an appeal in writing within ten calendar days of the date of notice.
- c) The request for a service appeal must be in writing and shall be

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- d) If the appellant is unable to request a service appeal in writing the Department or provider agency shall provide assistance to ensure that the request is made in writing.

Section 337.110 Grounds for Dismissal of a Service Appeal Request

- a) The Administrator of the Administrative Hearings Unit shall dismiss a request for a service appeal for the following reasons:
 - 1) the appellant failed to request an appeal within the time frames allowed. However, when timely or adequate notice was not provided in accordance with this Part, the appellants may appeal up to 45 days from the date they receive adequate notice of the Department's action or decision;
 - 2) the appeal has been withdrawn in writing. If the appellant is unable to withdraw the appeal in writing, the Department or provider shall help the appellant put the withdrawal in writing;
 - 3) the issue is not within the jurisdiction of the appeal system;
 - 4) a court has made a judicial determination or issued an order on the issue being appealed; or
 - 5) the appellant has waived the right to a service appeal by abandoning his or her right, as defined in Section 337.160 of this Part.
- b) The Administrator of the Administrative Hearings Unit shall give written notice of the decision to grant or deny the request for an appeal within ten calendar days of receipt of the request. If the Department finds that the issue is not an appealable issue under this Part, but may be appropriately heard through another appeal process (refer to 89 Ill. Adm. Code 435, Administrative Appeals and Hearings), the Department shall forward the request for appeal to the proper hearing authority and notify the appellant of this action.

Section 337.120 Time Frames for the Service Appeal Process

The appeal process shall begin on the date of appeal as defined in Section 337.20 of this Part. The Department shall give the appellant an opportunity to attend a mediation within 30 calendar days from the date of appeal and shall schedule a fair hearing within 45 calendar days from the date of appeal. An emergency review shall be heard on the appropriate issues within 10 calendar days from the date of the appeal. The Department shall make and implement a final administrative decision on the appealed issue within 90 calendar days from the date of appeal, extended by any delay caused by or agreed to by the appellant.

Section 337.130 Continuing Services During the Service Appeal Process

When an appellant requests a service appeal within the ten calendar days

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following the date of notice of the action to be taken, the Department or its provider agency shall continue to provide services unchanged during the appeal process, unless the situation is determined to be one which would result in imminent risk of harm to the child or others if services remain unchanged or if a corrective order has been issued by the reviewer subsequent to an emergency review.

Section 337.140 Confidentiality During the Service Appeal Process

- a) The Department has an affirmative duty to protect the confidentiality of personal information of clients served by the Department, in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, and the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C. par. 671 (a)(8)). Confidentiality shall be preserved during mediation, emergency review, the fair hearing, the transmittal of the administrative law judge's recommendation to the Director and the release of the final administrative decision.
- b) The mediator, reviewer, and the administrative law judge have the right to exclude any individual or agency who does not have the right of access to the information being presented in accordance with the Adoption Assistance and Child Welfare Act of 1980, the Children and Family Services Act, the Abused and Neglected Child Reporting Act, and any other pertinent Act.
- c) The mediator, reviewer, and administrative law judge have the authority to divide the proceeding into segments which deal with issues of the parent, child or other parties in order to preserve confidentiality as mandated under applicable statutes and rules and to prohibit discussion or introduction of evidence that is outside of the scope of the issues being presented in that segment.
- d) The client and authorized or legal representative have the right to review the case record, as provided by 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, upon request, with the exception of deleted confidential information, and to review any material the Department or agency intends to submit at the hearing. The case record will be made available for viewing by the client and representative in the presence of a Department employee during regular business hours at the office providing or denying services. The client or representative may obtain copies of the case record material in accordance with the Department's rules on confidentiality (89 Ill. Adm. Code 431).

Section 337.150 Notice Concerning a Service Appeal

The following persons shall receive notice that an appeal request has been granted and the date, time and place of the initial service appeal proceeding: the child (if age 13 or over and residing in substitute care), the family, the guardian ad litem upon written request and any other authorized or legal representative as defined in Section 337.60 of this Part, the provider

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agency, and foster parents when the issues raised on appeal directly affect the foster parents or their role as caretaker of the child.

- a) If the appellant agrees to mediation or if an emergency review is requested, the Department shall provide written notice to all parties of the time, date, and place of the mediation or emergency review. Notice concerning mediation and emergency review shall inform the parties of the right to bring any evidence in an attempt to resolve the problem more quickly.
- b) The Department shall provide written notice to the appellant of a fair hearing, which shall contain the following:
 - 1) the date, time and location of the hearing;
 - 2) a statement that the appellant or his or her authorized or legal representative's failure to appear at the hearing without adequate cause may be deemed an abandonment of the request, thus constituting a waiver by the appellant of the right to a hearing in accordance with Section 337.160 of this Part; and
 - 3) a statement of the parties' rights during the appeal process.
- c) All proceedings shall be scheduled at a time, date, and place reasonably convenient for all parties.

Section 337.160 Abandonment of a Service Appeal

- a) An appellant shall be considered to have abandoned a service appeal if the appellant, the appellant's authorized representative, or an individual legally acting on the behalf of the appellant fails to appear at the fair hearing without adequate cause, has not requested rescheduling prior to the hearing, or had requested rescheduling and the request was denied (e.g., requests for continuances without adequate cause). Abandonment will constitute a waiver of the right to appeal. Adequate cause for failing to appear at a fair hearing includes, but is not limited to:
 - 1) death in the family of the appellant or in the family of the appellant's representative;
 - 2) serious illness of the appellant or the appellant's family;
 - 3) failure of the Department to give notice of the hearing to the appellant or representative at the last known address available to the Department.
- b) The Department shall reschedule those cases being continued for adequate cause as soon as reasonably convenient for the parties and the administrative law judge.

Section 337.170 Fair Hearing Appeal Rights

- a) The Department carries the burden of proof in showing by a preponderance of the evidence that the decision made or action taken was in the best interests of the child, in accordance with professional social work standards and Department administrative

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- rules.
- b) The appellant has the right to request a rescheduling or continuance of the hearing when:
- 1) the appellant, his or her representative, or witness is not available, and the appellant can demonstrate adequate cause for the lack of availability;
 - 2) the appellant and the agency are in the process of negotiating an agreement to resolve the issue in dispute;
 - 3) additional time is needed to respond to expert evidence produced pursuant to subsection (g) below.

The time period from the date of request until the new hearing date shall not be considered as part of the 90 day time frame the Department has to issue and implement its final administrative decision.

- c) A party may require a person's attendance at the hearing if the person has information relevant to the issues in dispute by asking the administrator of the administrative hearings unit to issue appropriate subpoenas. Witness fees and travel expenses for persons requested by the parties, other than Department employees or provider agency staff under contract with the Department, are the responsibility of the parties making the request.
- d) A party may bring a representative, including legal counsel, and witnesses to the hearing at the party's expense.
- e) Upon the request of a party, or when the need is demonstrated, the Department shall provide an interpreter at no cost if English is not the party's primary language, or if the party is hearing impaired.
- f) Any prehearing motions shall be filed with the administrative law judge at least 10 calendar days before the hearing, unless the party filing the motion can show the required evidence or information was not available within the required time frame. Copies shall be provided simultaneously to the Administrator of the Administrative Hearings Unit and all other parties.
- g) At least five calendar days before the fair hearing, each party shall disclose to every other party the documents, a list of witnesses, and other evidence the party intends to introduce at the hearing. If a party fails to disclose evidence and then seeks to introduce it at the hearing, the administrative law judge shall have the authority to rule on whether to admit or exclude the evidence. In determining the appropriate sanction, the administrative law judge shall consider the surprise or prejudice to the other parties, including prior disclosure at administrative case review, mediation and emergency review. The administrative law judge's authority includes adjourning or continuing the hearing to a later time or date to permit the other parties to examine the evidence and prepare their cases accordingly. The period between disclosure of the evidence and rescheduling the hearing shall not be considered in the 90 calendar day time frame the Department has to issue and implement its final administrative decision.
- h) The parties have the right to obtain examining physician's reports, medical review team's decisions, or medical assessments at the expense

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- of the Department, if the administrative law judge deems this information is necessary and pertinent to the issue under appeal.
- i) During the fair hearing, the parties have the right to:
- 1) present and question witnesses;
 - 2) present any information relevant to the issues;
 - 3) question or disprove any information, including an opportunity to question opposing witnesses; and
 - 4) dispose of any disputed issue by mutually agreeing to a resolution.

Section 337.180 The Administrative Law Judge

- a) Appointment of the Administrative Law Judge
The Administrator of the Administrative Hearings Unit shall select and the Director shall appoint a trained, impartial administrative law judge to conduct the fair hearing. The administrative law judge:
- 1) shall be an attorney licensed to practice law in the State of Illinois;
 - 2) shall possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law, including familiarity with Department rules, procedures and functions;
 - 3) shall not have been involved in the decision to take the action being appealed or have rendered legal advice to the decision-maker on the issue; and
 - 4) shall not have a personal or professional interest which interferes with exercising objectivity or have any bias against the parties or issues appealed. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.
- b) Functions of the Administrative Law Judge
The administrative law judge shall have all authority allowed under the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, Ch. 127, par. 1001-1 et seq.). This authority shall include, but is not limited to, the following:
- 1) prior to the hearing, conduct prehearing and preliminary telephone conferences, if necessary, among the parties and/or their attorneys;
 - 2) conduct a fair and impartial hearing in which the strict rules of evidence do not apply;
 - 3) provide for the recording of the hearing;
 - 4) take necessary steps to develop a full and fair record which contains all relevant facts;
 - 5) inform participants of their individual rights and responsibilities;
 - 6) administer an oath or an affirmation to all witnesses;
 - 7) quash or modify subpoenas for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
 - 8) conduct in-camera reviews with children when requested by a child

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or a child's authorized representative. For purposes of this Part, an in-camera review means that the child may testify outside the presence of the appellant, with only the administrative law judge, Department and appellant's representative or attorney and court reporter, if applicable, present. If the appellant is unrepresented, the administrative law judge may continue the hearing to give the appellant the opportunity to obtain representation for the in-camera hearing;

- 9) preserve all documents and evidence for the record;
- 10) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
- 11) order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct which disrupts the hearing;
- 12) identify the issues, consider all relevant facts, and receive or request any additional information necessary to decide the matter in dispute. This may include, but is not limited to, the submission of briefs, memoranda of law, and affidavits;
- 13) order an examining physician's report, medical review team's decision, or medical assessments, if the administrative law judge considers them necessary and pertinent to the issue under appeal. If the administrative law judge deems this type of material necessary, the Department will pay for the expense of obtaining this material;
- 14) ensure that the appellant has full opportunity to present facts and information supporting his or her position, in accordance with any rules of evidence that may apply;
- 15) issue a recommendation to the Director of the Department based exclusively on the evidence presented at the hearing. This recommendation shall include a summary of the evidence, findings of facts, conclusions of law, and a recommended decision. This recommendation may also include recommendations of actions that should be taken to implement the recommended decision;
- 16) explore the possibility of reaching an agreement regarding services; and
- 17) assist the parties in reaching an agreement on services.

Section 337.190 Record of a Fair Hearing

The record of the fair hearing and the final administrative decision shall be maintained by the Administrator of the Administrative Hearings Unit. All final administrative decisions shall be available for public inspection during regular business hours. However, confidential information shall be deleted in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department.

Section 337.200 Combined Hearings

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When common issues are raised, the Administrator of the Administrative Hearings Unit may respond to requests for hearings from more than one appellant by conducting a single group hearing. The Administrator of the Administrative Hearings Unit may also combine all issues involving a single appellant in one hearing. Individuals shall be permitted to present their own cases separately. The Administrator of the Administrative Hearings Unit, if required for the fair and efficient administration of the hearing or to prevent possible prejudice to the appellant, may sever any party or any issue from the combined hearing. The party or issue severed from the combined hearing shall be heard separately. When the issue being appealed is related to whether abuse or neglect occurred, and the indicated finding is under appeal through 89 Ill. Adm. Code 336, Appeal of Child Abuse and Neglect Investigation Findings, the Administrator of the Administrative Hearings Unit shall decide whether to hear the cases jointly, separately or one ahead of the other. When considering this issue after reviewing the totality of the circumstances, the Administrator shall consider what is in the best interests of the child and rule accordingly.

Section 337.210 Continuances Requested in a Combined Hearing

The Deputy Director of the Bureau of Quality Assurance or the Administrator of the Administrative Hearings Unit, whomever appropriate, shall also consider requests for continuances by any party. The best interests of the child or children is the determining factor when deciding these issues. A final administrative decision must be made on the service appeal and implemented within 90 days of the date the Department received the request for the service appeal, extended by any delay caused or approved by an appellant.

Section 337.220 The Final Administrative Decision

The Director of the Department may agree, disagree or modify the administrative law judge's recommendation based upon the best interests of the child, in accordance with professional social work standards and Department administrative rules. The Director will then issue a decision which will be the final administrative decision of the Department. The Director shall send the final administrative decision to those listed in Section 337.230 of this Part. If the decision requires corrective action by the Department, the Director shall appoint a Department staff person who shall be responsible for assuring that prompt corrective action will be taken by the Department or provider agency within 90 days from the date of the appeal in compliance with the final administrative decision. Notice of who is responsible for corrective action will be given to the appellants along with the final administrative decision.

Section 337.230 Who Receives a Copy of the Final Administrative Decision

The appellant, authorized representative of the child, the parent or parents, any authorized or court appointed representative as defined in Section 337.60 of this Part, the administrative law judge, the Department's field-site office, the Department representative presenting the case, the Department's regional

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administrator, the Deputy Director of the Bureau of Quality Assurance, the Administrator of the Administrative Hearings Unit, and if they participate in the appeal and request it, the provider agency, guardian ad litem, foster parent, and purchase of service provider agencies shall receive a copy of the final administrative decision.

Section 337.240 Notice of the Availability of Judicial Review

The appellant shall be advised that, under the provisions of the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, par. 3-101 et seq.), he or she may seek a judicial review of the Department's final administrative decision within the statutory time frame.

Section 337.250 Severability of This Part

If any court of competent jurisdiction finds that any Section, clause, phrase or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

1) Heading of Part: Health and Safety

2) Code Citation: 56 Ill. Adm. Code 350

3) Section Numbers: 350.280
Adopted Action:
Amendment

4) Statutory Authority: Implementing and authorized by "AN ACT in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act herein named" (Ill. Rev. Stat. 1991, ch. 48, par. 59.02 et seq.) and the "Health and Safety Act" (Ill. Rev. Stat. 1991, ch. 48, par. 137.1 et seq.)

5) Effective Date of Amendment: January 19, 1993

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporation by reference? Yes.
This rule incorporates the standard located in the Federal Register Vol. 56, No. 235, Dec. 6, 1991 as 29 CFR 1910.1030, Occupational Exposure to Bioterror Pathogens and does not include any later amendments or editions.

8) Date Filed in Agency's Principal Office: December 15, 1992

9) Notice of Proposal Published in Illinois Register:

March 13, 1992, 16 Ill. Reg. 11 p. 3780

10) Has JCAR issued a Statement of Objections to this rule? Yes. JCAR has published a Statement of Objection in 17 Ill. Reg. 1, page 180. The Agency Response of the Objection is included for publication in this Illinois Register issue, page 1239.

11) Difference between proposal and final version: None

12) Have all the changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace an Emergency Rule currently in Effect? No

14) Are there any amendments pending on this part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
350.280	Amendment	16 Ill. Reg. 3780 (March 13, 1992)
350.290	New Section	16 Ill. Reg. 3260 (March 6, 1992)
350.300	New Section	16 Ill. Reg. 3260 (March 6, 1992)
350.310	New Section	16 Ill. Reg. 3260 (March 6, 1992)
350.400	New Section	16 Ill. Reg. 4645 (March 27, 1992)
350.410	New Section	16 Ill. Reg. 4645 (March 27, 1992)

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350.420	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350.430	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350.440	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350.450	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350.460	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350. Appendix A	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350. Appendix B	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350. Appendix C	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350. Appendix D	New Section 16 Ill. Reg. 4645 (March 27, 1992)
350. Appendix E	New Section 16 Ill. Reg. 4645 (March 27, 1992)

15) Summary and Purpose of Rules:
The Health and Safety Act and the Safety Inspection and Education Act require the Agency to adopt all final rules promulgated by the federal Occupational Safety and Health Administration. This rulemaking formally adopts 29CFR 1910.1030, Bloodborne Pathogens. Affected employers are required to develop a written exposure control plan in which they identify exposed employees; summarize standard operating procedures for engineering controls, work practices, and protective gear; ensure employee training; describe the HBV vaccination program and proper medical evaluation; and recordkeeping.

16) Information and questions regarding this adopted rule shall be directed to:

Lenore Killam
#1 West Old State Capitol Plaza, Room 300
Springfield, IL 62701
217/782-4102

The full text of the Adopted Rule is as follows:

ILLINOIS REGISTER		DEPARTMENT OF LABOR		NOTICE OF ADOPTED AMENDMENT(S)	
TITLE 56: LABOR AND EMPLOYMENT		CHAPTER I: DEPARTMENT OF LABOR		SUBCHAPTER b: REGULATION OF WORKING CONDITIONS	
PART 350		HEALTH AND SAFETY		SUBPART A: INSPECTIONS AND CITATIONS	
Section	Purpose and Scope	Section	Records of Injuries and Illnesses	SUBPART B: RECORDS OF INJURIES AND ILLNESSES	
350.10	Definitions	350.130	Emergency Notification	SUBPART C: FEDERAL STANDARDS	
350.20	Posting of Notice	350.140	Recordable Injuries and Illnesses	Adoption of Federal Standards	
350.30	Availability of Rules and Standards	350.150	Log of Injuries and Illnesses	Authority: Implementing and authorized by the Safety Inspection and Education	
350.40	Inspection Authority	350.160	Supplementary Record of Injuries and Illnesses		
350.50	Advance Notice of Inspection	350.170	Annual Summary		
350.60	Conduct of Inspections	350.180	Retention of Records		
350.70	Closing Conferences	350.190	Access to Records		
350.80	Representatives of Employers and Employees	350.195			
350.90	Objections During Inspection	350.200			
350.100	Trade Secrets or Confidential Information				
350.110	Consultation with Employees				
350.120	Complaints by Employees				
350.130	Imminent Danger				
350.140	Citations				
350.150	Posting of Citations				
350.160	Appeal of Citation				
350.170	Appeal of Abatement Period				
350.180	Petition for Variance from Standards				
350.190	Hearings				
350.195	Advisory Inspections				
350.200					

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Act (Ill. Rev. Stat. 1991, ch. 48, par. 59.1 et seq.) and the Health and Safety Act (Ill. Rev. Stat. 1991, ch. 48, par. 137.1 et seq.).

SOURCE: Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993.

SUBPART C: FEDERAL STANDARDS

Section 350.280 Adoption of Federal Standards

a) Pursuant to Section 4 of the Health and Safety Act, the Department hereby adopts by reference the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration as effective on July 1, 1991 and amended at FR 56:37650, FR56:41793 and FR56:43699. These standards are located at 29 CFR 1910, 1915, and 1926 and do not include any later amendments or editions.

b) The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Such amendments will be adopted by reference, or substitute provisions which provide equivalent protection will be adopted. Amendments will be adopted through filing with the Secretary of State and publication in the Illinois Register as required by Section 5.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005.01).

c) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991, no later amendments or editions). The dates listed in paragraph (i) of 29 CFR Part 1910.1030 are not applicable to Illinois public sector employers. The effective date (paragraph (i)(1) of the adopted standard) for the Illinois public sector shall be the effective date of this amendment, as published in the Illinois Register. The compliance date for paragraph (i)(2) of the adopted standard shall be 30 days after the effective date, the date for paragraph (i)(3) shall be 60 days after the effective date, and the date for paragraph (i)(4) shall be 90 days after the effective date.

(Source: Amended at 17 Ill. Reg. 1074, effective January 19, 1993)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Crisis Assistance
- 2) Code Citation: 89 Ill. Adm. Code 116
- 3) Section Numbers: Adopted Action:
116.400 Amendment
116.500 Amendment
116.520 Repeal
- 4) Statutory Authority: Sections 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 3-1 et seq., 4-1 et seq., 6-1 et seq. and 12-13)
- 5) Effective Date of Amendments: January 15, 1993
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 15, 1993
- 9) Notice of Proposal Published in Illinois Register:
September 11, 1992 (16 Ill. Reg. 13764)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: No substantive changes were made to the text of the amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
Yes
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rule change conforms to a change in state law. A state law change has eliminated the Hardship component of the Crisis Assistance Program. This rulemaking also incorporates non-medical needs related to essential medical care, which was formerly included under the Hardship Program, under the Special Assistance Program.

Clarification is added by this rulemaking which specifies that families ineligible for AFDC are not eligible for Special Assistance Payments for non-medical needs items related to essential medical care. In addition,

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this rulemaking removes telephone installation as a non-medical needs item related to essential medical care. This rulemaking also clarifies that payments for non-medical needs related to essential medical care may be made as often as is necessary regardless of whether the client has received a Special Assistance Payment in the past twelve months.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 116
 CRISIS ASSISTANCE

Section	Incorporation By Reference
116.10	Crisis Assistance Programs
116.400	Special Assistance Program
116.500	Emergency Assistance Program
116.510	Hardship Program (Repealed)
116.520	

AUTHORITY: Implementing Articles III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 6-1 et seq. and 12-13)

SOURCE: Filed and effective December 30, 1977; amended at 4 Ill. Reg. 13, p. 1287, effective March 17, 1980; amended at 5 Ill. Reg. 12722, effective October 28, 1981; codified at 7 Ill. Reg. 5195; emergency amendment at 9 Ill. Reg. 18154, effective November 15, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 11027, effective June 11, 1986; amended at 11 Ill. Reg. 6487, effective March 17, 1987; amended at 12 Ill. Reg. 14207, effective August 30, 1988; amended at 13 Ill. Reg. 3847, effective March 10, 1989; amended at 14 Ill. Reg. 16970, effective September 30, 1990; amended at 15 Ill. Reg. 16719, effective November 1, 1991; emergency amendment at 15 Ill. Reg. 16772, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5350, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13961, effective September 1, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1078, effective January 15, 1993.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 116.400 Crisis Assistance Programs

- a) The Department administers Crisis Assistance Programs which include the Special Assistance Program and the Emergency Assistance Program and the Hardship Program.
- b) The following groups of families are eligible for the Special Assistance and Emergency Assistance Programs:

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Section 116.400(b) (continued)

- 1) FAMILIES THAT RECEIVE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) FINANCIAL ASSISTANCE OR WHO MEET ALL THE ELIGIBILITY CRITERIA OF THE AFDC PROGRAM (see 89 Ill. Adm. Code 112) (Section 4-12 of the Illinois Public Aid Code, Ill. Rev. Stat. 1985 1991, ch. 23, par. 4-12);
- 2) families, ineligible for AFDC financial assistance, that contain a child under age 21 and meet the financial eligibility criteria of the AFDC program. However, families ineligible for AFDC are not eligible for Special Assistance for non-medical needs related to essential medical care;
- 3) PREGNANT WOMEN WHOSE PREGNANCY HAS BEEN MEDICALLY CONFIRMED WHO WOULD BE ELIGIBLE FOR THE AFDC PROGRAM IF THE CHILD WERE BORN (Section 4-12 of the Illinois Public Aid Code, Ill. Rev. Stat. 1985 1991, ch. 23, par. 4-12).
- e) Public-aid-financial-assistance-(all-programs)-recipients-who-are-ineligible-for-Special-Assistance-or-Emergency-Assistance-who-experience-a-need-related-to-essential-food-shelter-household-furnishings-or-clothing-may-be-eligible-for-assistance-through-the-Hardship-Program-(see-Section-116.620).
- d) c) Assistance provided through any of the Crisis Assistance Programs shall not be considered as income in computing the regular assistance grant.

(Source: Amended at 17 Ill. Reg. 1078, effective January 15, 1993)

Section 116.500 Special Assistance Program

- a) A special assistance payment may be provided in the following situations:

- 1) THE FAMILY IS RENDERED HOMELESS OR IS THREATENED WITH HOMELESSNESS AS A RESULT OF A FIRE, FLOOD OR OTHER NATURAL DISASTER.
- 2) THE FAMILY HAS AN EVICTION OR A COURT ORDER TO VACATE THE PREMISES FOR REASONS OTHER THAN NON-PAYMENT OF RENT.
- 3) A SPOUSE AND CHILD HAVE LEFT THE RESIDENCE OCCUPIED BY A SPOUSE WHO WAS PHYSICALLY ABUSING THE NOW HOMELESS SPOUSE OR CHILD.

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Section 116.500(a) (continued)

- 4) THE FAMILY IS DERIVED OF ESSENTIAL ITEMS OF FURNITURE AND/OR CLOTHING BY FIRE, FLOOD OR OTHER NATURAL DISASTER (Section 4-12 of the Illinois Public Aid, Ill. Rev. Stat. 1991 1989, ch. 23, par. 4-12).
- 5) The family is deprived of food as a result of fire, flood or other disaster which does not render the family homeless and cannot be met through the food stamp program. Food cannot be authorized for replacement of food or rotten food stamps.
- 6) The family is threatened with dissolution of the family unit by economic necessity as evidenced by a decision by the Illinois Department of Children and Family Services (DCFS) that the child will have to be placed in a foster home setting if the economic crisis is not alleviated.
- 7) The family has non-medical needs related to essential medical care. Non-medical needs for essential medical care are needs associated with the provision of specialized or essential medical care and include the following:
 - A) Food - when overnight lodging is required or when extensive travel is required during the day in order to obtain essential or specialized medical care.
 - B) Lodging - when overnight lodging is required to obtain essential or specialized medical care.
 - C) Transportation to the source of essential or specialized medical care when it cannot be provided by the Medical Assistance Program or some other source. Transportation expenses for routine office visits associated with normal medical care shall not be allowed.
- b) Payment shall be made for the following items when the recipient has demonstrated a need for such an item:
 - 1) One month's rent;
 - 2) Food (minus the amount of available food stamps);
 - 3) Essential clothing;
 - A) Essential clothing is defined as those articles of clothing appropriate for the season which the recipient would have purchased with the money which is lost or stolen.

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Section 116.500(b)(3) (continued)

- B) If everyone in the assistance unit has at least one full set of clothing, appropriate to the season, this allowance for clothing will not be authorized.

4) Household supplies; and

5) Essential household furnishings; and

6) Non-medical needs related to essential medical care.

Eligibility for non-medical needs related to essential medical care is determined through the verification of a specialized or essential medical need. The verification of a specialized or essential medical need is provided by the client's doctor.

c) Maximum Payments

1) Shelter Costs (One month's rent)

Group I Counties-\$142.00

Group II Counties-\$123.00

Group III Counties-\$87.00

(See 89 Ill. Adm. Code 113.258 for County Groups)

2) Clothing, Household Supplies

Size Assistance Unit	Clothing	Household Supplies
1	\$34.00	\$11.00
2	\$56.00	\$14.00
3	\$92.00	\$17.00
4	\$117.00	\$17.00
5	\$146.00	\$20.00
6	\$174.00	\$20.00
7	\$204.00	\$22.00
8	\$233.00	\$22.00
9	\$261.00	\$23.00
10	\$291.00	\$24.00

- 3) Food - \$2.00 per person per day until the receipt of the next regular warrant (AFDC recipients) or until receipt of regular source of income or receipt of food stamps (non-AFDC recipients) not to exceed 30 days.

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Section 116.500(c) (continued)

4) Household Furnishings

- A) Kitchen table - \$50.00
one per assistance unit

B) Kitchen Chair - \$10.00

one per person in assistance unit

- C) Beds - to ensure adequate sleeping facilities for all members of the assistance unit.

i) Bed frame - \$30.00

ii) Single mattress and springs - \$70.00

iii) Double mattress and springs - \$100.00

iv) Bunk beds (including mattresses and springs) - \$130.00

v) Crib (including mattress) - \$65.00

5) Non-Medical Needs Related to Essential Medical Care

- A) Food - \$9.00 a day or \$3.00 per meal.

- B) Lodging - Lodging expenses shall be approved for the least expensive rate which provides lodging that is adequate and available to meet the individual's needs. Payment will not be provided for a higher amount if it can be determined that lodging is available free of charge or at a lower rate.

- C) Transportation - When transportation cannot be provided by the Medical Assistance Program, transportation expenses shall be approved for the least expensive mode of transportation adequate to meet the individual's needs. When transportation is by private automobile, the allowable rate shall be at 14¢ per mile.

d) Time Limits

- 1) For families already receiving financial assistance, a decision on a request for Special Assistance shall be made within five (5) work days of the date of request. Assistance shall be authorized within two (2) work days following the decision.
- 2) For families not already receiving financial assistance:

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Section 116.500(d)(2) (continued)

A) five (5) work days shall be allowed for the client to provide necessary verifications; and five (5) work days shall be allowed to determine eligibility.

B) Assistance shall be authorized within five (5) work days of a determination of eligibility.

e) Program Restriction

The recipient may only receive special assistance during one period of thirty (30) consecutive days in any twelve (12) consecutive months. This may include payments to meet needs which occur before or extend beyond the thirty (30) day period. However, this provision does not apply to non-medical needs related to essential medical care. Payment for non-medical needs related to essential medical care may be made as often as is necessary regardless of whether the client has received a Special Assistance Payment in the past twelve months. A client may receive a Special Assistance Payment for a reason other than a non-medical need related to essential medical care regardless of whether a Special Assistance Payment for non-medical needs has been made within the past twelve months.

(Source: Amended at 17 Ill. Reg. 1078, effective January 15, 1993)

Section 116.520 Hardship Program (Repealed)

a) When a client who is receiving financial assistance as a General Assistance (GA) case in the City of Chicago, or as an Aid to Families With Dependent Children (AFDC) case, or as an Aid to the Aged, Blind or Disabled (AABD) case experiences a hardship resulting from needs which cannot be met from existing client resources, existing community resources, the assistance standards, Medical Assistance Program, Special Assistance Program or Emergency Assistance Program, the client may request special consideration as a hardship. Needs covered by the Hardship Program include

1) Essential Food

If the client fails to use all existing community resources for food, the allowance for food will not be authorized.

2) Essential Clothing

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Section 116.520(a) (continued)

A) Essential clothing is defined as those articles of clothing appropriate for the season.

B) If everyone in the assistance unit has at least one full set of clothing appropriate to the season, this allowance for clothing will not be authorized.

3) Repairs or Replacement of Furnaces (Homestead Property Only)

A) No repair or replacement will be authorized when there is co-ownership of the property with an individual not in the assistance unit.

B) Repair or replacement of a furnace is limited to property that is not in danger of foreclosure. The assistance unit must provide verification which indicates mortgage payments and tax payments are current.

C) No repair or replacement of the furnace will be approved for homes which have knowingly been purchased with non-working furnaces.

D) Before total replacement of a furnace is considered, verification must be provided from a reputable source (i.e., recognized in the community as being in the furnace repair business) that the furnace is not repairable.

E) Hardship Assistance for furnace repair must be seasonally appropriate (September through May).

4) Non-Medical Needs Related to Essential Medical Care

Non-medical needs for essential medical care are needs associated with the provision of specialized or essential medical care and include the following

A) Food -- when overnight lodging is required or when extensive travel is required during the day in order to obtain essential or specialized medical care.

B) Lodging -- when overnight lodging is required to obtain essential or specialized medical care.

C) Transportation to the source of essential or specialized medical care when it cannot be provided by the Medical

NOTICE OF ADOPTED AMENDMENTS

Section 116.520(a)(4)(C) (continued)

Assistance Program or some other source. Transportation expenses for routine office visits associated with normal medical care shall not be allowed.

- D) Telephone Installation---when a telephone is essential for medical treatment.

b) Maximum Payments

The maximum payments for essential food, clothing, and household furnishings used under the Special Assistance Program (see Section 116.500) are also used for the Hardship Program. The maximum payment amounts allowed for other items are:

- 1) Repair or Replacement of a furnace---Repair or replacement of a furnace will be based on the lowest cost estimate from a reputable source for the same or similar type heating system. No up-grading of heating systems will be approved.

- 2) Non-medical needs related to essential medical care:

- A) Food---\$9.00-a day or \$3.00-per meal.
- B) Lodging---Lodging expenses shall be approved for the least expensive rate which provides lodging that is adequate and available to meet the individual's needs. Payment will not be provided for a higher amount if it can be determined that lodging is available free of charge or at a lower rate.
- C) Transportation---when transportation cannot be provided by the Medical Assistance Program, transportation expenses shall be approved for the least expensive mode of transportation adequate to meet the individual's needs. When transportation is by private automobile, the allowable rate shall be at 24¢ per mile.
- D) Telephone Installation---When medically necessary, payment shall be made for the installation of one telephone, based on the service estimate provided by the local phone company. If the telephone instrument cannot be leased from the phone company, payment may also be authorized to purchase a telephone. Payment shall not be authorized for required deposits for previously owed bills or for on-going monthly bills once the phone has been installed.

NOTICE OF ADOPTED AMENDMENTS

Section 116.520 (continued)

e) Eligibility for the Hardship Program

- 1) Eligibility for non-medical needs related to essential medical care is determined through the verification of a specialized or essential medical need. The verification of a specialized or essential medical need is provided by the client's primary care physician. Eligibility for all other needs defined under the Hardship Program shall be determined by verifying the need for hardship assistance and by calculating the amount of income the family has available to meet the verified hardship need.

- 2) If the family's available income is more than the cost of the needed item, the family is not eligible for Hardship Assistance. Available income is calculated by subtracting the family's necessary living expenses from the family's total income. The family is defined as children, the children's mother, father (including step-parents and grandparents), if they reside in the household.

- 3) Income from all sources is used to determine the family's total income. Total income includes but is not limited to the following: all public assistance grants, SSA, SSI, child support, energy assistance checks, wages, retirement benefits, pensions, etc. No source of income is exempt from consideration when determining the family's total income.

- 4) The following expenses only are considered necessary living expenses under the Hardship Program:

- A) Shelter---rent or mortgage
- B) Necessary utilities---heat, gas, electricity, water, sewer and trash
- C) A food expense amount---determined by subtracting the family's food stamp amount from the USDA maximum for that size household (see 89 Ill. Adm. Code 121.64).
- D) An amount based on size of the assistance unit for the purchase of household supplies. The allowable amounts are:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 116.520(c)(4)(D) (continued)

Size Assistance Unit	Household Supplies
1	\$11.00
2	\$14.00
3	\$17.00
4	\$17.00
5	\$20.00
6	\$20.00
7	\$22.00
8	\$22.00
9	\$23.00
10	\$24.00

For assistance units greater than 10, allow \$1.00 for each additional person.

- 5) When there are other people present in the household that have income but are not part of the family, expenses for shelter, utilities and food shall be prorated. When there are two or more separate assistance units in the same household, expenses should be prorated between the two assistance units.
- 6) Only rent, mortgage and necessary utility expenses which have been verified as actually paid by the client shall be allowed as a living expense. The family's necessary living expenses are subtracted from the family's total income to determine the family's available income. This income is considered to be available for use by the family to meet its hardship need(s).
- 7) The family's available income is compared to the cost (the maximum payment amount) of the needed item. If the family's available income is more than the cost of the needed item, the family is not eligible for Hardship Assistance.
- 8) When more than one item is needed, the Department shall subtract the cost of the most expensive items from available income which ensures that the maximum amount of the family's available income is applied toward the cost of the needed items. The combination of items which can be purchased by the maximum use of available income will be disapproved by the Department. The remaining needed items which cannot be purchased through the use of available income shall be approved by the Department.

d) Time Limits

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NOTICE OF ADOPTED AMENDMENTS

Section 116.520(d) (continued)

- 1) A decision shall be made and assistance, if any, issued within forty-five (45) days of the date of the request for hardship assistance.
- 2) When a home visit to verify need has been attempted, seven (7) calendar days shall be allowed for the client to contact the Department and schedule a second visit. If the client fails the second attempted visit, the request for hardship assistance will be denied.
- 3) Ten (10) calendar days shall be allowed for the client to provide any additional verification, which was not available at the home visit.
- e) Program Restrictions
 - 1) Payment for the cost of repair or maintenance of homestead property for AFDC and GA clients shall not be allowed under this program. See 89 Ill. Adm. Code 113.307 for property repairs as a special need item for AABD clients.
 - 2) Except for non-medical needs related to essential medical care, the recipient may only receive hardship assistance during one period of thirty (30) consecutive days in any twelve (12) consecutive months. This may include payments to meet needs which occur before or extend beyond the thirty (30) day period.

(Source: Repealed at 17 Ill. Reg. 1078, effective January 15, 1993)

DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Number:
114.9
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 6-1 et seq. and 12-13)
- 5) Effective Date of Amendments: January 15, 1993
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 15, 1993
- 9) Notice of Proposal Published in Illinois Register:
September 4, 1992 (16 Ill. Reg. 13395)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: No changes were made to this rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
Yes
- 14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
114.120	Amendment	October 16, 1992 (16 Ill. Reg. 15810)
114.121	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.124	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.125	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.126	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.127	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.128	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.129	Repeal	October 16, 1992 (16 Ill. Reg. 15810)
114.130	Repeal	October 16, 1992 (16 Ill. Reg. 15810)

DEPARTMENT OF PUBLIC AID
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- 15) Summary and Purpose of Amendments: This rule change conforms to a change in state law. A state law change has eliminated the provision that benefits be reinstated in full to the date of change when assistance was reduced or terminated due to a clients failure to cooperate within 10 working days after the first day financial aid would have been available and the client indicates a willingness to cooperate with the Department.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 114
GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

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114.5

Description of the Assistance Program
Determination of Not Employable
Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

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Client Cooperation
Citizenship
Residence
Age
Relationship
Living Arrangement
Social Security Numbers
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Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
Job Service Registration (Outside City of Chicago only)
Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
Responsibility to Seek Employment (Outside City of Chicago only)
Initial Employment Expenses (Outside City of Chicago only)
Downstate General Assistance Work and Training Programs
Downstate General Assistance - Food Stamps Employment and Training Pilot Project
Project Chance Participation/Cooperation Requirements (Renumbered)
General Assistance Jobs Program (Repealed)

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SUBPART C: PROJECT ADVANCE

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Project Advance
Project Advance Participation Requirements of Adjudicated Fathers
Project Advance Cooperation Requirements of Adjudicated Fathers
Project Advance Sanctions
Project Advance Good Cause for Failure to Comply
Individuals Exempt From Project Advance
Project Advance Supportive Services

DEPARTMENT OF PUBLIC AID

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SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

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Employment and Training Requirements
Persons Required to Participate in Project Chance (Repealed)
Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
Employment and Training Participation/Cooperation Requirements (Repealed)
Employment and Training Program Orientation (Repealed)
Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
Employment and Training Program Components (Repealed)
Employment and Training Sanctions (Repealed)
Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
Employment and Training Supportive Services (Repealed)
Conciliation and Fair Hearings (Repealed)
Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

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Unearned Income
Budgeting Unearned Income
Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
Initial Receipt of Unearned Income
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Education Benefits
Unearned Income In-Kind
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Lump Sum Payments
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114.227 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision

114.228 Initial Employment

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114.235 Recognized Employment Expenses

114.240 Income From Work/Study/Training Program (Repealed)

114.241 Earned Income From Self-Employment

114.242 Earned Income From Roomer and Boarder

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114.244 Earned Income In-Kind

114.245 Payments from the Illinois Department of Children and Family Services

114.246 Budgeting Earned Income For Contractual Employees

114.247 Budgeting Earned Income For Non-contractual School Employees

114.250 Assets

114.251 Exempt Assets

114.252 Asset Disregards

114.260 Deferral of Consideration of Assets (Repealed)

114.270 Property Transfers

114.280 Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

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114.350 Payment Levels for General Assistance

114.351 Payment Levels in Group I Counties

114.352 Payment Levels in Group II Counties

114.353 Payment Levels in Group III Counties

SUBPART G: OTHER PROVISIONS

Section

114.400 Persons Who May Be Included In the Assistance Unit

114.401 Eligibility of Strikers

114.402 Special Needs Authorizations

114.403 Institutional Status

114.404 Retrospective Budgeting

114.405 Budgeting Schedule

114.406 Limitation on Amount of General Assistance to Recipients from Other States

EMERGENCY Redetermination of Eligibility

114.420 Twelve Month Extension of Medical Assistance Due to Increased Income From Employment

114.430 Attorney's Fees for VA Appellants

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EMERGENCY

DEPARTMENT OF PUBLIC AID

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SUBPART H: CHILD CARE

Section

114.450 Child Care

114.452 Child Care Eligibility

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114.456 Notification of Available Services

114.458 Participant Rights and Responsibilities

114.462 Additional Service to Secure or Maintain Child Care Arrangements

114.464 Rates of Payment for Child Care

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SUBPART I: TRANSITIONAL CHILD CARE

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114.500 Transitional Child Care Eligibility

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114.506 Loss of Eligibility for Transitional Child Care

114.508 Qualified Provider

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114.512 Participant Rights and Responsibilities

114.514 Child Care Overpayments and Recoveries

114.516 Fees for Service for Transitional Child Care

114.518 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 6-1 et seq. and 12-13)

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July

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8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended (by adding section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding section being codified with no substantive change) at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg.

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15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4896, effective March 7, 1986; amended at 10 Ill. Reg. 10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5, 1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 Ill. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill. Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 288, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11164, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg.

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13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815, effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 114.9 Client Cooperation

a) As a condition of eligibility, clients must cooperate:

- 1) in the determination of eligibility;
 - 2) with Department programs conducted for the purposes of acquisition or verification of information upon which eligibility may depend;
 - 3) in applying for all financial benefits for which they may qualify and to avail themselves of such benefits at the earliest possible date.
- b) Clients are required to avail themselves of all potential resources.
- c) When eligibility cannot be conclusively determined because the individual is unwilling or fails to provide essential information or to consent to verification, the client is ineligible.

d) Reinstatement

- 1) Whenever financial aid is reduced or terminated due to the failure of the client to cooperate with the Department and the client, within ten (10) working days after the first day the financial aid would have been available, indicates his or her willingness to cooperate with the Department, the financial aid shall be reinstated in full, retroactive to the date the change or termination of the grant occurred, provided the client is not otherwise ineligible for financial assistance for the period in question.

- 2) Failure to cooperate includes but is not limited to failure to keep an appointment, failure to attend a meeting, failure to

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Section 114.9(d)(2) (continued)

produce proof or verification of eligibility or need in response to a Department request to contact it and failure to be available for a home visit.

- 3) Whenever a client whose benefits have been reduced or terminated for failure to cooperate contacts the Department about the termination or reduction within ten (10) working days after the first day the financial aid would have been available, the Department shall inform the client that his/her financial assistance will be reinstated if he/she indicates a willingness to cooperate. The client shall be deemed willing to cooperate with the Department when he/she makes contact with the Department for the purpose of speaking to appropriate staff and indicating a willingness to cooperate.

- 4) The client's willingness to cooperate shall be demonstrated by his/her willingness to attend a rescheduled appointment or meeting producing needed proof or verification, agreeing to attempt to obtain needed proof or verification, asking for help in obtaining proof or verification or seeking whatever is needed to determine continued eligibility.

- 5) If the client fails to cooperate a second time for the same reason after being reinstated once under this subsection (d), assistance will not be reinstated again until the client actually cooperates. If the client expresses a willingness to cooperate within ten (10) working days after the first day the financial aid should have been available, and actually cooperates, the financial aid will be reinstated in full as in subsection (d)(1) above.

- 6) The policy in this subsection (d) does not apply in the case of sanctions imposed due to the failure of the client to participate, as required, in the child support enforcement program (see 89 Ill. Adm. Code 160) or in any educational training or employment program conducted through the Department (see Sections 114.120 thru 114.130).

e)d) At screening, applicants shall be informed, in writing, of any information they are to provide at the eligibility interview.

f)e) At the eligibility interview or at any time during the application process, when the applicant is requested to provide information in his or her possession, the Department will allow ten (10) days for the return of the requested information. The first day of the ten (10) day period is the calendar day following the date the

DEPARTMENT OF PUBLIC AID

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Section 114.9(e) (continued)

information request form is sent or given to the applicant. The last day of the ten (10) day period shall be a work day and is to be indicated on the information request form. If the applicant does not provide the information by the date on the information request form, the application shall be denied on the following work day.

g) At the eligibility interview or at any time during the application process, when the applicant is requested to provide third party information, the Department shall allow ten (10) days for the return of the requested information or for verification that the third party information has been requested. The first day of the ten (10) day period is the calendar day following the date the information request form is sent or given to the applicant. The last day of the ten (10) day period shall be a work day and is to be indicated on the information request form. It is to be indicated on the information request form that the applicant shall provide written verification of the request for the third party information. If the applicant does not provide the information or the verification that the information was requested by the date on the information request form, the application shall be denied on the following work day.

- 1) Third party information is defined as information which must be provided by someone other than the applicant. An authorized representative or person applying on another's behalf is not a third party but is treated as if he were the applicant.
- 2) The Department shall advise clients of the need to provide written verification of third party information requests and the consequences of failing to provide such verification.
- 3) If the applicant requests an extension either verbally or in writing in order to obtain third party information and provides written verification of the request for the third party information such as a copy of the request that was sent to the third party, an extension of ninety (90) days from the date of application shall be granted. The first day of the ninety (90) day period is the calendar day following the date of application. The 90th day must be a work day.
- 4) If an applicant's attempt to obtain third party information is unsuccessful, upon the applicant's request the Department will assist in securing evidence to support the client's eligibility for assistance.

(Source: Amended at 17 Ill. Reg. 1091, effective January 15, 1993)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Assistance Programs

2) Code Citation: 89 Ill. Adm. Code 120

3) Section Number: Adopted Action:

120.385 Repeal

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

5) Effective Date of Amendments: January 15, 1993

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 15, 1993

9) Notice of Proposal Published in Illinois Register:

September 25, 1992 (16 Ill. Reg. 14544)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version: No substantive changes were made to the text of the amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect? No

14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
120.70	Amendment	January 22, 1993 (17 Ill. Reg. 711)
120.73	New Section	January 22, 1993 (17 Ill. Reg. 711)
120.75	New Section	January 22, 1993 (17 Ill. Reg. 711)

15) Summary and Purpose of Amendments: This rulemaking is necessary to delete provisions regarding the transfer of assets for applications filed prior to October 1, 1989. Transfer of asset policy was obsoleted with the implementation of the Medicare Catastrophic Coverage Act of 1988. Regardless of the reason for the transfer, eligibility is not affected because of a transfer of assets.

DEPARTMENT OF PUBLIC AID

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

Section
120.1

Incorporation By Reference

SUBPART B: ASSISTANCE STANDARDS

Section
120.10
120.11

120.12

120.20
120.30
120.31
120.40
120.50

Eligibility For Medical Assistance
Eligibility For Medical Assistance For Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy
Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women
MANG(AABD) Income Standard
MANG(C) Income Standard
MANG(P) Income Standard
Exceptions To Use Of MANG Income Standard
AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section
120.60

120.61
120.62

120.63
120.64
120.65

All Cases Other Than Intermediate Care, Skilled Nursing Care, DMHDD, DMHDD Approved Community Based Settings and Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy
Cases in Intermediate Care, Skilled Nursing Care and DMHDD - MANG(AABD) and All Other Licensed Medical Facilities
Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643
Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings
Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy
Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements

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SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

Section
120.70 Supplementary Medical Insurance Benefits, Buy-In Program
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section
120.90 Migrant Medical Program
120.91 Income Standards

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section
120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)
120.225 Social Security Numbers (Repealed)
120.230 Unearned Income (Repealed)
120.235 Exempt Unearned Income (Repealed)
120.236 Education Benefits (Repealed)
120.240 Unearned Income In-Kind (Repealed)
120.245 Earmarked Income (Repealed)
120.250 Lump Sum Payments and Income Tax Refunds (Repealed)
120.255 Protected Income (Repealed)
120.260 Earned Income (Repealed)
120.261 Budgeting Earned Income (Repealed)
120.262 Exempt Earned Income (Repealed)
120.270 Recognized Employment Expenses (Repealed)
120.271 Income From Work/Study/Training Program (Repealed)
120.272 Earned Income From Self-Employment (Repealed)
120.273 Earned Income From Roomer and Boarder (Repealed)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

120.275 Earned Income In-Kind (Repealed)
120.276 Payments from the Illinois Department of Children and Family Services (Repealed)
120.280 Assets (Repealed)
120.281 Exempt Assets (Repealed)
120.282 Asset Disregards (Repealed)
120.283 Deferral of Consideration of Assets (Repealed)
120.284 Spend-down of Assets (AMI) (Repealed)
120.285 Property Transfers (Repealed)
120.290 Persons Who May Be Included in the Assistance Unit (Repealed)
120.295 Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section
120.308 Client Cooperation
120.309 Caretaker Relative
120.310 Citizenship
120.311 Residence
120.312 Age
120.313 Blind
120.314 Disabled
120.315 Relationship
120.316 Living Arrangements
120.317 Supplemental Payments
120.318 Institutional Status
120.319 Assignment of Rights to Medical Support and Collection of Payment
120.320 Cooperation in Establishing Paternity and Obtaining Medical Support
120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324 Foster Care Program
120.325 Social Security Numbers
120.330 Unearned Income
120.332 Budgeting Unearned Income
120.335 Exempt Unearned Income
120.336 Education Benefits
120.338 Incentive Allowance
120.340 Unearned Income In-Kind
120.342 Court Ordered Child Support Payments of Parent/Step-Parent
120.345 Earmarked Income
120.346 Medicaid Qualifying Trusts
120.350 Lump Sum Payments and Income Tax Refunds
120.355 Protected Income
120.360 Earned Income

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NOTICE OF ADOPTED AMENDMENTS

120.361 Budgeting Earned Income
 120.362 Exempt Earned Income
 120.364 Earned Income Exemption
 120.366 Exclusion From Earned Income Exemption
 120.370 Recognized Employment Expenses
 120.371 Income From Work/Study/Training Programs
 120.372 Earned Income From Self-Employment
 120.373 Earned Income From Roomer and Boarder
 120.375 Earned Income In Kind
 120.376 Payments from the Illinois Department of Children and Family Services
 120.379 Assessment of Assets
 120.380 Assets
 120.381 Exempt Assets
 120.382 Asset Disregard
 120.383 Deferral of Consideration of Assets
 120.384 Spend-down of Assets (MANG)
 120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
 120.386 Property Transfers Effective for Applications Filed on or After October 1, 1989
 120.390 Persons Who May Be Included In the Assistance Unit
 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
 120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project.
 120.395 Payment Levels for MANG
 120.399 Redetermination of Eligibility

AUTHORITY: Implementing Articles III, IV, V, VI and VII and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq. and 12-13)

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3

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111. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11047, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg.

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effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11773, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section 120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)

The provisions listed below apply to applications for Medicaid filed prior to October 1, 1989, and only with respect to property (i.e., assets) transferred prior to October 1, 1989.

- a) A transfer of assets occurs when an applicant or recipient buys, sells or gives away real or personal property or changes (e.g., change from joint tenancy to tenancy in common) the way property is held.
- b) A transfer is allowable if:
 - 1) the transfer occurred more than two years from the date of review
 - 2) a fair market value was received,--Fair market value is the price that an article or piece of property might be expected to bring if offered for sale in a fair market.--Fair market value is determined by statements obtained from institutions, community members, etc. (e.g., bankers, jewelers, reputable realtors, etc.) recognized as having knowledge of property values.
 - 3) the transfer was involuntary (e.g., tax sales, judgment sales, etc.)

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17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637,

DEPARTMENT OF PUBLIC AID

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Section 120.385(b) (continued)

- 4) ~~the transfer was due to separation, divorce or other settlement (e.g., when the court orders a settlement of a client's assets or when the client and the client's spouse divide their assets in half without a court order)~~
- 5) ~~the transfer was a change from an individual to joint bank account~~
- 6) ~~the transfer was of exempt assets~~
- 7) ~~the transfer was an equal division of marital assets~~
- e) ~~If the transfer does not fall within the listing of subsection (b) above, the transfer will be reviewed to determine if the transfer was made to qualify for or increase the need for assistance. If the transfer was made to qualify for or increase the need for assistance, the client is ineligible until whichever occurs first:~~
 - 1) ~~the asset is returned or~~
 - 2) ~~a fair market value is paid to the client or~~
 - 3) ~~the period of time the asset would meet the client's needs has passed or~~
 - 4) ~~two years has passed~~

- e) ~~If a client transfers an asset which is not allowable, the client must verify that the transfer was not made to qualify for assistance (e.g., a bank repossesses the property. The client must provide a copy of the repossession paper(s) to the Department.)~~
- e) ~~The client is ineligible for assistance for the number of months that the asset would have met his/her needs up to two (2) years from the date of the transfer. (To determine the number of months the asset would have met the client's need, divide the amount of the asset by the MAND standard plus incurred medical expenses.)~~

- 1) ~~For applicants, the first month of ineligibility is the month of application~~
- 2) ~~For recipients, the first month of ineligibility is the month assistance was discontinued because of the transfer~~

(Source: Repealed at 17 Ill. Reg. 1102, effective January 15, 1993)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Adopted Action:
140.700
Amendment
- 4) Statutory Authority: Sections 5-5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 5-5.1 et seq. and 12-13)
- 5) Effective Date of Amendments: January 15, 1993
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 15, 1993
- 9) Notice of Proposal Published in Illinois Register:
May 15, 1992 (16 Ill. Reg. 7576)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes have been made in the proposed amendments.

In subsection (a), the words "or therapeutic leave" have been deleted. The words "following a hospital admission," which had been proposed for deletion, are being retained.

In subsection (c), the words "same sex" have been added to complete the phrase "semi-private, same sex, room."

Subsection (e) has been revised by deleting the last sentence and adding the following sentence, "In addition to requirements stated in the 77 Ill. Adm. Code 300.3300(e), the contents of the notice shall also include requirements under 42 CFR 483.12(a)(5)."

In proposed Section 140.700, many references to "facility," "nursing home," "home" and "long term care facility" have been changed to "nursing facility" or "facility."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify As Mandatory Categorically Needy
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under GA
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims
- 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 13) Will these Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes

Sections Proposed Action Illinois Register Citation

- 140.12 Amendment November 6, 1992 (16 Ill. Reg. 17049)
- 140.19 Amendment January 8, 1993 (17 Ill. Reg. 62)
- 140.80 New Section October 2, 1992 (16 Ill. Reg. 15019)
- 140.82 New Section October 2, 1992 (16 Ill. Reg. 15019)
- 140.84 New Section October 2, 1992 (16 Ill. Reg. 15019)
- 140.94 Amendment October 2, 1992 (16 Ill. Reg. 15019)
- 140.95 Amendment October 2, 1992 (16 Ill. Reg. 15019)
- 140.485 Amendment October 30, 1992 (16 Ill. Reg. 16495)
- 140.488 Amendment October 30, 1992 (16 Ill. Reg. 16495)
- 140.492 Amendment September 4, 1992 (16 Ill. Reg. 13397)
- 140.511 Amendment November 27, 1992 (16 Ill. Reg. 17461)
- 140.539 Amendment December 18, 1992 (16 Ill. Reg. 19665)
- 140.642 Amendment November 30, 1992 (16 Ill. Reg. 17956)
- 140.648 Amendment November 13, 1992 (16 Ill. Reg. 17209)
- 140.TABLE K Amendment October 9, 1992 (16 Ill. Reg. 15296)

- 15) Summary and Purpose of Amendments: These amendments specify the transfer, discharge and readmission requirements which are applicable in nursing facilities. The amendments address readmittance to a facility when a resident's hospitalization or therapeutic leave exceeds the bed reserve period, and the responsibility of facilities to comply with federal regulations and the regulations of the Illinois Department of Public Health which pertain to the transfer and discharge of nursing facility residents.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

140.22 Magnetic Tape Billings
 140.23 Payment of Claims
 140.24 Payment Procedures
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140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
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140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
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140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29,

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Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I reclassified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 reclassified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988; for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; Sections 140.850 thru 140.896 reclassified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7025, effective April 24, 1989; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.938 reclassified to 89 Ill. Adm. Code 148.1 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 reclassified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 4570,

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effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

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NOTICE OF ADOPTED AMENDMENTS

SUBPART E: GROUP CARE

Section 140.700 Discharge of Long Term Care Residents

a) A nursing facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because he or she is a recipient or an applicant for the Medical Assistance Program. A recipient or applicant shall be considered a resident in the nursing facility during any hospital stay totaling 10 days or less following a hospital admission regardless of whether or not the nursing facility qualifies for payment for bed reserve per the criteria stated in 89 Ill. Adm. Code 140.523.

b) If a nursing home facility should refuse to accept a resident back in the home facility after a stay in the hospital of less than ten days, the result may be that the resident will thereafter incur hospital bills of a greater amount than the nursing home facility care would have cost. If the Department were to become liable to pay such hospital bills as a result of the nursing home's facility's refusal to take the recipient back into the home facility, the Department shall recoup its costs for that unnecessary hospitalization from the nursing home facility. The provider will be required to pay the Department the portion of the hospital bill that is in excess of the amount that would otherwise have been paid for care in the nursing home facility from the date on which the nursing home facility refused to accept the resident's return. The Department will notify the provider of its intent to recoup and opportunity for a hearing shall be given pursuant to 89 Ill. Adm. Code 104: Subpart C.

c) A nursing facility must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed reserve period specified in Section 140.523, is readmitted to the nursing facility immediately upon the first availability of a bed in a semi-private, same sex room if the resident requires the services provided by the nursing facility and is eligible for Medicaid certified facility services.

d) The nursing facility must permit each resident to remain in the nursing facility and not transfer or discharge the resident except in specific instances as stated in the 77 Ill. Adm. Code 300.3300(c)(1)(A) through (C).

e) For all Medicaid certified nursing facilities, notice of transfer or discharge must be made to any resident 30 days before the resident is transferred or discharged as mandated by 42 CFR 483.12 (a)(4)(B). In

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NOTICE OF ADOPTED AMENDMENTS

Section 140.700(e) (continued)

addition to requirements stated in the 77 Ill. Adm. Code 300.3300 (e), the contents of the notice shall also include requirements under 42 CFR 483.12 (a)(5).

(Source: Amended at 17 Ill. Reg. 1112, effective January 15, 1993)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Reimbursement For Nursing Costs For Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Numbers:

147.150	Amendment
147.205	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, Ch. 23, Par. 12-13)
- 5) Effective Date of Amendments: January 12, 1993
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 12, 1993
- 9) Notice of Proposal Published in Illinois Register:
August 28, 1992 (16 Ill. Reg. 13215)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following change has been made in the text of the proposed amendments in Section 147.150.

in Section 147.150(b)(1)(A)(v), the second sentence has been changed to read, "For those homes below 90% of the statewide average the wage is replaced by 90% of the statewide average."

Additionally, several technical changes have been made upon the recommendation of the Administrative Code Division, regarding an error in a heading, a correction in the Table of Contents, and updating of the main source note.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
Yes
- 14) Are there any Amendments pending on this Part? No

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments:

89 Ill. Adm. Code 147.150

Emergency amendments were filed which provide for necessary increases in the rates of reimbursement for nursing care in nursing facilities. Two revisions were proposed regarding wages for nurses (RNs and LPNs) and nurse aides, which have resulted in increases in statewide rates and created greater equity in calculating facility rates. The first change allows for the continuation of the minimum wage factor. For facilities below 90% of the statewide average wage, the wage is replaced by 90% of the statewide average. Absent the immediate implementation of the continuation of the minimum wage factor, such provisions in Section 147.150 were to expire due to questions regarding the adequacy of funding for long term care services for Fiscal Year 1993. Additionally, the final wage multiplier was increased from 4.1% to 6.2%, and resulted in a 2% wage increase in the nursing component. The estimated increase in Department expenditures due to these changes is \$13.4 million.

89 Ill. Adm. Code 147.205

These emergency amendments have resulted in necessary increases in nursing rates for nursing facilities, through a wage adjuster add-on. These amendments provide for an add-on to the final nursing rate calculation, that pays \$1.58 per resident day in Health Service Areas (HSA) which have wages equal to or above the statewide average, and \$2.00 per resident day in HSAs that have wages below the statewide average. The approximate increase in Department expenditures due to the wage adjuster add-on is \$31.7 million.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR
GERIATRIC FACILITIES

Section	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities
147.5	Comprehensive Resident Assessment
147.15	Functional Needs and Restorative Care
147.25	Service Needs
147.50	Definitions
147.75	Reconsiderations
147.100	Midnight Census Report
147.105	Times and Staff Levels
147.125	Statewide Rates
147.150	Referrals
147.175	Basic Rehabilitation Aide Training Program
147.200	Nursing Rates
147.205	Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203)
147.250	Determination of Program (Psychiatric Rehabilitation Services) Costs
147.300	Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities
147.305	Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness
147.310	Comprehensive Functional Assessments and Reassessments
147.315	Interdisciplinary Team (IDT)
147.320	Comprehensive Program Plan (CPP)
147.325	Specialized Care - Administration of Psychopharmacologic Drugs
147.330	Specialized Care - Behavioral Emergencies
147.335	Discharge Planning
147.340	Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness
147.345	Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing Facilities
147.350	Staff Time and Allocation by Need Level
147.355	Staff Time and Allocation for Restorative Programs
147.360	Comprehensive Resident Assessment
147.365	Functional Needs and Restorative Care
147.370	Service
147.375	Social Services

NOTICE OF ADOPTED AMENDMENTS

147.TABLE G Therapy Services
 147.TABLE H Determinations
 147.TABLE I Activities
 147.TABLE J Signatures
 147.TABLE K Rehabilitation Services
 147.TABLE L Personal Information

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (111. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (111. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 147.150 Statewide Rates

- a) This Section will become effective July 1, 1991 unless otherwise indicated.

NOTICE OF ADOPTED AMENDMENTS

Section 147.150 (continued)

- b) Per diem reimbursement rates for nursing care in intermediate and skilled care facilities consist of six elements: variable time reimbursement, training time reimbursement, fixed time reimbursement, fringe benefit reimbursement, and reimbursement for allowable costs of supplies, consultants, medical and nursing directors, and therapies.
- 1) Variable Time Reimbursement. Variable nursing time is that time necessary to meet the major service needs of residents which vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and Staff level (Sections 147.Table A and 147.Table B). Reimbursement is developed by multiplying the time for each service by the wage(s) of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. When a service can be provided by either an RN or an LPN, the wage used will be weighted by the average mix of RNs and LPNs in the sample of facilities used to set rates.
 - A) Determination of wages. In calculating the rate, the figures used by the Department for "wages" will be determined in the following manner:
 - i) The mean wages for the applicable staff levels (RN's, LPN's, Nurse Aides) as reported on the cost reports and determined by geographical location will be the base.
 - ii) Fringe benefits will be equal to 21%.
 - iii) The fringe benefits will be added to the base.
 - iv) This new total will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected wage changes.
 - v) Special minimum wage factor. For the period beginning July 1, 1990 through June-30, 1992, the Department will modify the process used in subsection (b)(1)(A)(i) to determine regional mean wages for

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 147.150(b)(1)(A)(v) (continued)

Registered Nurses (RN), Licensed Practical Nurses (LPN) and nurse aides to include a minimum wage factor. For those homes below 90% of the statewide average the wage is replaced by 90% of the statewide average. Effective July 1, 1991, through June 30, 1992, a final wage multiplier of 4.1% will be applied to wages. Beginning July 1, 1992, a final wage multiplier of 6.2% will be applied to wages.

- B) Determination of Times and Staff Levels. The times and staff levels have been assigned by a panel of administrators and nurses active in long term care. Prior time/motion studies were used to assist the panel. These times will be reviewed periodically to insure that they accurately reflect nursing practice in the State.

2) Training Time Reimbursement

Training Time Reimbursement is determined by assessed need for training, the time allotted for training and the wage rates for licensed and nurse aide staff during the rate year.

- 3) Fixed Time Reimbursement. Fixed or indirect nursing time is that time which does not vary with resident condition or which cannot be measured by an assessment tool. It includes such items as staff meetings, supervision, "downtime", checking physicians' orders and time spent with residents which does not vary with condition. A statewide sample of residents will be used to determine "fixed" time. The mean variable time will be computed for the sample for each level of care, and this amount subtracted from Department of Public Health Minimum Staffing Ratios plus 5% for each level of care. (Department of Public Health Minimum Staffing Ratios, which are measured in terms of time, can be found in 77 Ill. Adm. Code 300.1230). Once the "fixed" time has been determined, the minutes will be weighted at 20% licensed and 80% unlicensed time and multiplied by the appropriate wage. This amount will be added to variable time for each resident in the sample. If fixed time is less than zero minutes, then it will equal zero.

- 4) Vacation, Sick Leave and Holiday Time. The time to be added for vacation, sick leave and holidays will be determined by multiplying the sum of Variable and Fixed time by 5%. This time will then be weighted by 80% unlicensed and 20% licensed wages to determine the amount to be added to the rate for these benefits.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 147.150(b) (continued)

- 5) Special Supplies, Consultants and the Director of Nursing.

Finally, amounts will be added for health care and program supplies, consultants required by Department of Public Health (including the Medical Director), and the Director of Nursing. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830).

- A) Supplies will be updated for inflation using the General Services Inflation (see 89 Ill. Adm. Code 140.551). A standard amount by level of care will be allocated for supplies. This amount will be determined based on the ratio of median updated supply costs by region to median costs for variable and fixed time by level of care (SNF/ICF) by region.

- B) The same analysis will be used to determine an amount for Consultants (including Medical Director) and the Director of Nursing. However, these costs will be updated with the wage inflation rate.

- 6) Therapies. Reimbursement for physical therapy, occupational therapy, and speech therapy will not be based upon individual resident need assessments, but upon the total therapy program days the facility provided to Medicaid residents over the six-month period prior to and including the resident assessment date. These therapy days, by therapy type and level (see Table H) will be associated with staff time per day as shown in Table H and staff wages to produce a per diem rate for each of the three therapy types.

c) Determination of Facility Rates.

- 1) The rate each facility receives will be determined by the assessed needs of residents the facility serves. Effective January 1, 1990, nurses from Department of Public Aid (DPA) will conduct an assessment of 100% of the Medicaid residents by level of care in each home annually. The assessment will be conducted during the four month period prior to the annual nursing IOC rate adjustment date. The needs of the residents in the sample will be assessed with the Resident Assessment Instrument. An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wage/wages for each assessment item (see (a) above), adding the appropriate amount for fixed time (see (b) above) and amounts

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 147.150(c)(1) (continued)

for vacation, sick and holiday time (see (c) above), supplies, consultants, and the Director of Nursing, (see (d) above). The average of the rates for residents assessed will become the facility's per diem reimbursement rate for each Medicaid patient in the facility effective on the facility's annual nursing IOC rate adjustment date.

2) A copy of the Resident Assessment will be left with the facility upon completion.

d) Adjustment in Instrument. Residents assessed as being in need of a service but is not receiving the required service will be scored solely as need not met.

e) An interim IOC may be requested by a facility by notifying, in writing, the Bureau of Long Term Quality Care Bureau Chief within 180 days of the exit date of the last IOC. The following criteria shall be met before a request for an interim IOC can be made. A 25% or greater turnover in Medicaid residents since the last IOC or there has been a 7% or greater increase in the average per patient care time. The request for the interim IOC shall contain a full explanation of why the facility meets the criteria and must include any documentation relevant to the request. The facility will be notified within 45 days from the date the request is received of whether an interim IOC will be conducted. If approved, the Bureau will conduct a full IOC within 60 days of the written approval decision. Upon reassessment, an amended 2700 will be forwarded to the DPA. Upon receipt of the amended 2700 the facility's rate will become effective for the final six months of that facility's rate year.

f) If the interim IOC is scheduled to take place during the period when the next annual IOC is scheduled, only one IOC will be done. The rate that results will apply for the 18 month period which begins with the effective date of the interim IOC rate.

(Source: amended at 17 Ill. Reg. 1128, effective January 12, 1993)

Section 147.205 Nursing Rates

For residential nursing services provided to Medicaid residents in skilled and intermediate care facilities from January 1, 1989, ~~and thereafter unless~~ otherwise indicated, the Department will determine nursing rates according to the following ~~four~~ two steps:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 147.205 (continued)

a) Calculation of the nursing rate: For each facility, the nursing rate will be computed according to the methods specified in Section 147.150(b), employing reimbursable staff times as specified in Section 147. Tables A and B for all assessment items.

b) Calculation of the final nursing rate: for each facility, a final nursing rate will be equal to the sum of the nursing rate (see subsection (a) above) plus an add-on for Care Planning equal to thirty-five (35¢) per resident day, statewide. ~~Effective July 1, 1992, there will be an additional wage adjuster add-on of \$1.58 per resident day for HSAs that have wages equal to or above the Statewide average and \$2.00 per resident day for HSAs that have wages below the Statewide average.~~

(Source: amended at 17 Ill. Reg. 1128, effective January 12, 1993)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Program Content and Guidelines for Division of Specialized Care For Children.

- 2) Code Citation: 89 Ill. Adm. Code 1200

- 3) Section Numbers: Adopted Action:

1200.10	Amendments
1200.20	Amendments
1200.30	Amendments
1200.40	Amendments
1200.50	Amendments
1200.60	Amendments
1200.70	Amendments
1200.80	Amendments
1200.100	Amendments
1200.110	Amendments
1200.Appendix A	

- 4) Statutory Authority: Implementing Section 1 of the Specialized Care for Children Act (Ill. Rev. Stat. 1991, ch. 144, par. 67.1) and authorized by Section 1 of the University of Illinois Act (Ill. Rev. Stat. 1991, ch. 144, par. 22).

- 5) Effective Date of Amendments: March 8, 1993

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: March 8, 1993

- 9) Notice of Proposal Published in Illinois Register: October 9, 1992, 16 Ill. Reg. 15354

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference between proposal and final version:

- A) Added "Title 89: Social Services, Chapter X: Board of Trustees of the University of Illinois" to the heading on the Table of Contents.
- B) In the main authority, changed the "Act" names to the short act names i.e. "the Specialized Care for Children Act" and "the University of Illinois Act".
- C) In the main authority, reflected "1987" as a strike-thru in the Illinois Revised Statutes references.
- D) In the main source note, carried main source in continuous line to the right margin.
- E) In 1200.10 a)), reflected "Services for Crippled Children" as a strike-thru and "Specialized Care for Children" as an underscored addition; changed "(U.S.C. ch. 42, par. 701 et seq., effective

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January 2, 1968)" to "(42 U.S.C. 701 et seq.)"; changed the "Act" names to the short act names and reflected 1985 as a strike-thru in the Illinois Revised Statute references.

- F) In 1200.10 b)1), changed "(U.S.C. ch. 42, par. 1382d (a)(2), effective August 14, 1935)" to "(42 U.S.C. 1382d (a)(2))".
- G) In 1200.20 Definitions - deleted the outline letters [a), b), c) etc.] throughout entire section; in the Legally Responsible Adult definition, changed to state the Emancipation of Mature Minors Act (Ill. Rev. Stat. 1987 1991, ch. 40, par. 2201 et seq.); changed to state in accordance with Consent by Minors to Medical Procedures Act (Ill. Rev. Stat. 1987 1991 ch. 111, par. 4501 et seq.); added a definition for "Principal Medical Condition"; expanded the definition of Illinois "Resident" to include military personnel.
- H) In 1200.30 a), the last sentence, corrected section number to read "Section 1200.40".
- I) In 1200.30 c)2), the second sentence, corrected statement to read "of this subsection".
- J) In 1200.30 d)4)a), the second sentence, deleted "shall not be considered for reimbursement for the treatment services rendered at the time of referral to DSCC".
- K) In 1200.40 b)2), expanded definition by deleting "physical disabilities" and adding "persistent or recurring loss of consciousness, coordination, strength or sensation, but not cognitive or emotional disability".
- L) In 1200.40 b)8) changed "Act" name to the short act name, "the Hemophilia Act (Ill. Rev. Stat. 1987 1991, ch. 111 1/2, pars 2901 et seq.)".
- M) In 1200.40 b)9) added "newborn" to definition.
- N) In 1200.40 e) added "which" after "disabilities"; changed realistic habilitation goal" to "successful treatment of the eligible condition"; changed "relate to" to "be necessary for the successful treatment of"; changed "primary health problem, as defined by the Recipient Child's attending physician" to "principal medical condition".
- O) In 1200.50 c)5(E)i) & ii), deleted reference to "reinstated" and added "may reapply".
- P) In 1200.60 g)1), deleted "or referral, whichever is earlier".
- Q) In 1200.70 b)4), deleted "adopted February 10, 1987".
- R) In 1200.70 e), changed "to comply" to "for complying".
- S) In 1200.80 e)2)1) deleted "or who, as a special requirement imposed by a physical impairment or as a result of the severity of an impairment, require specialized dental restorative intervention".
- T) In 1200.110 c)4), deleted quote marks from the Act name, reflected 1985 and effective July 1, 1984 as strike-thru's in the Illinois Revised Statute references.
- U) In 1200.110 d)2), deleted "Illinois" from the Clinical Laboratory Act and added the Ill. Rev. Stat. reference.

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12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Amendments concerning the name change of the agency; the use of "disabled" instead of "crippled"; the retroactive eligibility date; some time frame adjustments; the use of financial eligibility criteria from other state agencies; removing the LRA's option to pay vendors directly; deeming fully enrolled CHIPS participants as ineligible; increasing the financial eligibility period in some circumstances; the financial criteria used in determining financial eligibility; the addition of standards for clinical laboratories; updates to the Income Scale; adding new definitions for "principal medical condition" and "completed application"; expanding definitions for Illinois resident, Nervous System Impairment and Inborn Errors of Metabolism; changing reinstatement of eligibility to re-application.

16) Information and questions regarding these adopted amendments shall be directed to:

Dr. Robert F. Biehl, Director
Division of Specialized Care for Children
2815 W. Washington, Suite 300
P. O. Box 19481
Springfield, IL 62794-9481
Telephone: (217) 793-2340

The full text of Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER X: THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

PART 1200

PROGRAM CONTENT AND GUIDELINES FOR DIVISION
OF SERVICES ~~FOR CRIPPLED~~ SPECIALIZED CARE FOR CHILDREN

Section	Purpose and Description
1200.10	Definitions
1200.20	Eligibility: General
1200.30	Medical Eligibility
1200.40	Financial Eligibility
1200.50	Appeal Process
1200.60	Payment for Services
1200.70	Availability of Services
1200.80	Rates of Payment
1200.90	Standards for Health Care Professionals
1200.100	Standards for Health Care Facilities
1200.110	Records
1200.120	Reports
1200.130	Income Scale
APPENDIX A	Payment Scale
APPENDIX B	

AUTHORITY: Implementing Section 1 of the Specialized Care for Children Act (Ill. Rev. Stat. 1991, ch. 144, par. 67.1) and authorized by Section 1 of the University of Illinois Act (Ill. Rev. Stat. 1991, ch. 144, par. 22).

SOURCE: Adopted at 11 Ill. Reg. 3508, effective February 10, 1987; amended at 13 Ill. Reg. 9283, effective June 6, 1989; amended at 14 Ill. Reg. 5136, effective March 22, 1990; amended at 17 Ill. Reg. 1137, effective March 8, 1993.

Section 1200.10 Purpose and Description

a) General Program

1) The Division of ~~Services--for--Crippled~~ Specialized Care for Children (hereinafter referred to as "DSCC" or "the Division") is the department of the University of Illinois designated to receive and administer funds and aid under Federal and State programs, including the Maternal and Child Health Services Block Grant (42 U.S.C. ch. 427-par. 701 et seq. 7-effective-January-27-1968) as implemented by 42 C.F.R. Part 51ar et seq., for the purpose of providing rehabilitative, rehabilitative, and medical treatment to crippled disabled children, as provided in Section 1 of "An Act enabling the University of Illinois--to--qualify--for Federal--Funds--and--aid-in-relation-to-the-administration-of-the Division-of-Services-for-Crippled-Children" the Specialized Care for Children Act (Ill. Rev. Stat. 1991, ch. 144, par. 67.1)

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("the Act"). The objectives of DSCC are as follows:

- A) to provide for early evaluation of crippled disabled children with conditions eligible for the services of the Division;
 - B) to develop and implement a mechanism for evaluation and diagnosis required to carry out the purposes of this Part;
 - C) to offer or arrange for the necessary specialized medical care and related rehabilitative services for eligible crippled disabled children;
 - D) to develop, promote or improve the standards of care required by crippled disabled children;
 - E) to make efforts, within the resources of DSCC, to coordinate benefits for children who are eligible for other state programs providing benefits to children with health problems.
- 2) All services are provided subject to budgetary limitations and annual appropriations to the state and federal programs through which DSCC is funded.
- b) Supplemental Security Income - Disabled Children's Program (SSI-DCP)
 - 1) DSCC administers this program for the State of Illinois in accordance with Section 1615(a)(2) of "Subchapter XVI - Supplemental Security Income for Aged, Blind, and Disabled" (42 U.S.C. ch. 42, par. 1382d(a)(2)) effective August--14,--1995 to the extent provided in this Part.
 - 2) Children are evaluated as eligible for this program by the Social Security Administration of the U.S. Government and its regional offices as well as the Department of Rehabilitation Services of the State of Illinois through its Disability Adjudication Unit. Children so deemed eligible by those agencies are referred to DSCC for disposition.
 - 3) An SSI-DCP-eligible child with a Medically Eligible Condition shall be deemed to be entitled to DSCC benefits in accordance with and subject to this Part. (See Section 1200.40 of this Part.) All other SSI-DCP-eligible children will be referred by DSCC to programs, services, or institutions providing assistance to said children whenever such programs, services, or institutions are available.
 - c) Service Population

Children suspected of having Medically Eligible Conditions represent the potential service population. Such children, if not already specifically diagnosed, may be referred to DSCC for a diagnostic evaluation.

 - 1) Availability of Information
 - 1) All information distributed by DSCC about its programs, as well as all official DSCC forms and/or applications are available in both English and Spanish.
 - 2) For further descriptions of available DSCC information and DSCC information dissemination techniques, see DSCC Internal Operating Rules7 (2 Ill. Adm. Code Sec- 5155).
 - d) Availability of Information
 - 1) All information distributed by DSCC about its programs, as well as all official DSCC forms and/or applications are available in both English and Spanish.
 - 2) For further descriptions of available DSCC information and DSCC information dissemination techniques, see DSCC Internal Operating Rules7 (2 Ill. Adm. Code Sec- 5155).

Section 1200.20 Definitions

Adjusted Family Income: The amount equal to the family's Annual annual Gross Total Income as defined in Section 1200.50(d)(2) less excisions-under-Section-1200.50(d)(3)-and less allowable expenses as determined pursuant to Section 1200.50(d)(4)(3).

Advisory Board: As established in Section 2 of the Act, seven physicians or surgeons appointed by the University of Illinois Board of Trustees who advise the University of Illinois and the Division on qualifying for Federal funds, make recommendations to the University and the Division regarding the provision of services to crippled disabled children, and consult with the Division and the University regarding general policy considerations.

Allowable Expenses: Deductions from the gross-family-income annual Total Income as specified in Section 1200.50(d)(4)(3).

Amenable to Treatment: Reasonable medical certainty of long term developmental improvement as determined by the treating physician.

Annual Gross Total Income: The amount of a family's income determined pursuant to Section 1200.50(d)(2), and-(3)-

Applicant: One applying for DSCC eligibility. The term as used in this Part refers to the child.

Assistive Appliance: Equipment intended to support, replace or augment a dysfunctioning or non-functioning part of the body. Such appliances -- which may be mechanical, structural or electrical -- are intended to support specific rehabilitative objectives determined by the child's health care providers.

Authorized Services: Direct medical care and related care for a Recipient Child, as more completely set forth in Section 1200.80(e) of this Part, which DSCC staff has provided for payment.

Chronic Condition: Condition which is expected to be long lasting or to be lifelong.

Completed Application: A signed and dated request for program benefits made by the LRA on a form specified by the agency which contains current, accurate and relevant information in every space required by the form.

Consent: An agreement by a Legally Responsible Adult to a certain

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course of action involving him/herself or his/her Recipient Child. Such consent will only be valid when the consenting person:

has been informed by the physician(s) treating a Recipient Child of such foreseeable risks, results, and alternatives to a proposed medical procedure as a reasonable medical practitioner of the same school, in the same or similar circumstances, would make known to his/her patients;

agrees in writing to the performance of the procedure for which consent was sought;

has been informed that the granting of consent is voluntary and may be revoked at any time.

Stripped Disabled Child: An individual below the age of 21 who has a physical impairment or an organic disease, function, defect, or condition which may hinder the achievement of normal growth and/or development.

Diagnostic Services: Those medical services which provide information necessary to determine a child's medical eligibility for participation in the DSCC treatment program, i.e., whether an Applicant has a Medically Eligible Condition. See Section 1200.40 of this Part. Diagnostic Services shall also include any initial interviews provided as a part of the application process.

Emergency: A medical situation requiring immediate medical care and services to avoid loss of life, permanent loss of good health, or permanent degradation of state of health.

Field Clinic: A community-based clinic which meets on a periodic basis for the purpose of diagnosis and treatment. Such clinics are organized and operated by DSCC and utilize DSCC approved providers.

Financial Participation Agreement (FPA): The agreement between DSCC and the Legally Responsible Adult(s) which specifies the family's monetary obligation to pay for a specified portion of approved direct medical care and/or related care for their Recipient Child, which agreement must be signed prior to receiving DSCC benefits. This amount is determined according to the Payment Scale, Appendix B, of this Part and through the rules established in this Part.

Full Financial Assistance: When DSCC pays, to the extent provided for in this Part, for all of a Recipient Child's DSCC authorized services not covered by the family's insurance. To determine eligibility see Section 1200.50 of this Part.

Health Care Professional: Any individual or corporation licensed or certified to provide health care services to a patient and practicing in a commonly recognized field of knowledge. The term shall include but shall not be limited to Physicians and Other Health Care

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Professionals as defined in Section 1200.100(a)(3).

Health Care Facility: Any Diagnostic and Treatment Facility within the contemplation of Section 1200.110(a) and any Outpatient Therapy Center within the contemplation of Section 1200.110(b) of this Part.

Health Care Provider: Any Health Care Professional, Health Care Facility, or any Medical Equipment Supplier within the meaning of Section 1200.110(c) of this Part.

Income: Money received by an Applicant, Recipient Child, or his family which can be applied directly to meet basic needs for food, shelter, and medical expenses. **Gross** Total income is defined at Section 1200.50(d)(2) of this Part. Adjusted family income, i.e., net income, is figured by reference to Sections 1200.50(d)(3) and ~~1200.50(d)(4)~~ of this Part.

Income Scale: The schedule, adjusted for family size, used to determine financial eligibility.

Individual Service Plan: A document describing a child's health and developmental status which serves as a basis for a plan of specific services and monitoring. The Plan is developed by the DSCC professional staff based upon the demonstrated health care needs of the child and the availability of services to meet those needs.

Legally Responsible Adult (LRA): A person who is legally required to provide for and entitled to make decisions about the DSCC service Applicant or Recipient Child. This person may be a parent (biological or adoptive), or legally appointed guardian. The LRA may also be the DSCC service Applicant or Recipient Child under the following circumstances:

If he/she has been emancipated in accordance with the provisions of the Emancipation of Mature Minors Act (Ill. Rev. Stat. ~~1997~~ 1991 ch. 40, par. 2201 et seq.) provided that the order of emancipation contemplates that the Applicant or Recipient Child is empowered to act in the manner required.
If he/she is authorized to consent to health care services in accordance with "AN Act in relation to the performance of medical, dental or surgical procedures on and counseling for minors" the Consent by Minors to Medical Procedures Act (Ill. Rev. Stat. ~~1997~~ 1991, ch. 111, par. 4501 et seq.).

If he/she is over the age of 18 years and has the legal capacity to act in the manner required, provided that, if any Applicant or Recipient Child is partially or wholly financially dependent on his/her parents or guardian, the parents or guardian shall be considered the LRA for purposes of making financial determinations hereunder. Medical consent is required from only one Legally Responsible Adult in the event that the Recipient

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Child or Applicant is not legally entitled to consent.

Medically Eligible Condition: That medical condition which renders the child eligible for DSCC services. Specific conditions are enumerated at Section 1200.40 of this Part.

Parent: The biological or adoptive parent of the Applicant or Recipient Child receiving or seeking DSCC services.

Partial Financial Assistance: The amount that DSCC pays over and above the amount for which the family is obligated and over and above the amount which is covered by insurance.

Payment Scale: The schedule indicating an amount the family is expected to contribute toward the medically related costs of care for their Recipient Child during a twelve (12) month period. This contribution is required from all families who have not been categorized as fully financially eligible.

Principal Medical Condition: The medical condition which exerts the most pervasive impact on the child's function, state of health or well-being or anatomic structure. Usually the condition which requires the most immediate and extensive medical attention at the time.

Programmatic Assistance: A process undertaken by professional staff of the Division on behalf of children with Medically Eligible Conditions, which may include procedures for evaluation of the child's condition, development of an Individual Service Plan, recommendations of health care providers and facilities, assistance in arrangement of such care, and subsequent monitoring of the status of the child and family. The level of programmatic assistance required will be based on the medical needs of the child as determined by usual and customary medical standards.

Recipient Child: A child who is currently receiving DSCC services or whose Health Care Providers are being paid, in whole or part, by DSCC.

Referral: A procedure by which any person can introduce a child to the DSCC program. See Section 1200.80(f)(6)(A)(c)(5)(A) and (B) of this Part.

Reimbursement Agreement: Written agreement signed by the LRA(s) and/or attorney(s) for the LRA or eligible child specifying that any money recovered as judgment or settlement of a lawsuit or from an insurance or personal settlement arising from a claim relating to the child's medical condition for which DSCC is providing care or reimbursing Health Care Providers will be used to reimburse DSCC for its payment of the child's medical and related care costs, which funds

will then be replaced into the DSCC program and used to further benefit eligible children.

Resident(s) of Illinois:

Any person living in the State of Illinois with the intent to remain in the State indefinitely. The term "living in the State of Illinois" shall be limited to all persons whose primary domicile is located within the State. Intent to remain indefinitely is established through a showing that a person has significant contacts with the State of Illinois as evidenced by indicia thereof, such as maintaining a bank account in the State, registering to vote in the State, paying Illinois income taxes, obtaining permanent employment within the State, owning real estate within the State, and possessing an Illinois driver's license or similar permits; or

Any person who is present in the State of Illinois for the purpose of performing migrant agricultural labor and who evidenced a pattern of regularly returning to the State to perform such work or who expresses an intention to establish a pattern of regularly returning to the State to perform such work. Migrant agricultural labor is defined as agricultural work of a seasonal or temporary nature which requires that the worker be away from his/her permanent place of residence to perform said work more than overnight. A pattern of regularly returning to the State to perform such work shall be considered to have been established if a person is present in the State of Illinois to perform migrant agricultural work for two successive growing seasons; or

Any person who is an active duty member of the U.S. military and on official military assignment within the State of Illinois whether or not they maintain residence in another state, or any person who is an active duty member of the U.S. military on official military assignment in another state or country who pays Illinois income taxes.

Retroactive Authorization: Authorizations which occur, under specified circumstances, after medical service has been provided to a Recipient Child. See Section 1200.80(f)(3)(c)(5) for enumeration of the circumstances in which this will be considered.

Retroactive Financial Eligibility: Financial eligibility which reaches back no more than 30 days prior to the date of referral--or application--(whichever is earlier)--in certain specified circumstances completed application. See Section 1200.50(c)(4)(f)(7)(A) and (B) for enumeration of these circumstances.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

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Section 1200.30 Eligibility: General

a) Program Purpose

The purpose of the Illinois Division of ~~Services--for--Crippled~~ Specialized Care for Children is to provide diagnostic and treatment services for children who are ~~crippled~~ disabled as a result of congenital and/or acquired ~~cripping--or--disease~~ states or have a condition which may lead to ~~cripping--impairment~~ disability. The objective is to provide a program of comprehensive evaluation, medical care and related habilitative services appropriate to their various needs and to financially support such care to the extent that their legally Responsible Adults (LRAs) require such financial assistance as determined by the Financial Eligibility Criteria (Section 1200.50 of this Part). Children who are eligible for Programmatic Assistance only will be served without regard to a financial means test. Due to financial limitations, DSCC will only provide assistance to children with certain categories of ~~cripping~~ cripping ~~disabling~~ conditions as defined in Section ~~1200.40~~ 1200.40 of this Part.

b) Eligibility Criteria for Diagnostic Services

1) Initial diagnostic services are provided without regard to ability to pay to the extent medically necessary applying usual and customary medical standards to determine whether the child has one of the conditions enumerated in Section 1200.40, Medically Eligible Conditions. Whenever eligibility or ineligibility is established based upon an interview with the child or the LRA, which occurs when a diagnosis has already been established, DSCC shall not be required to provide further initial medical diagnostic services.

2) Children may be but need not be referred for said services by an individual or agency.

c) Eligibility Criteria for Other DSCC Services

1) Programmatic Assistance

To be eligible for Programmatic Assistance a child must meet the following requirements:

A) Be under 21 years of age (except that DSCC shall provide services beyond the child's 21st birthday when necessary to complete a treatment plan developed before that time if cessation of treatment would cause an immediate threat to or damage to the child's life or good health or would negate gains resulting from previous rehabilitative efforts. In no event may said extension continue beyond six months after the child's 21st birthday);

B) Be a Resident of Illinois;

C) Have a Medically Eligible Condition.

2) Treatment Services and Financial Support

It is recognized that it is the duty and responsibility of the LRAs to pay for necessary health care services for their children. DSCC will assist the LRA with this responsibility for each child meeting the criteria of ~~Section--1200.30(c)--of--this~~

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Part this subsection by providing treatment services and financial assistance, provided the LRAs are Residents of Illinois, and provided:

A) The LRAs are lawfully admitted to the United States on a visa or permit which contemplates that the LRA will be entitled to permanently remain in the United States or has been admitted under color of law; or

B) The child ~~aforedescribed~~ is a United States citizen.

3) In addition, whenever payment for treatment services or financial support is desired, the LRA must:

A) Meet the financial eligibility criteria set forth at Section 1200.50 of this Part;

B) ~~utilize~~ Make maximum use of insurance benefits, if any, as well as any other form of payment, (such as trust funds, gifts, or fund raising drives) available for the child, and/or make the payments toward the support of the child's treatment as are determined by his or her FPA;

C) Sign a Reimbursement Agreement, if the injuries for which treatment is sought were caused by any alleged negligent act (including products liability) and litigation is pending or contemplated.

D) Further, any attorney retained to represent the child on any claim relating to the child's medical condition for which DSCC will provide care must separately sign the Reimbursement Agreement. Failure to comply with this requirement will not, however, delay or hinder the application process.

d) Application Process: Initial and Continuing Eligibility

1) No person participating in or wishing to participate in the Division's programs shall be denied benefits of the program or shall be discriminated against on the basis of sex, religion, race, color, national origin or handicap not related to program eligibility.

2) General responsibilities of Applicants, Recipient Children, and LRAs:

A) Applicants/~~Recipients~~ and LRAs requesting assistance shall furnish requested factual information regarding eligibility and shall keep DSCC informed of any changes in financial status (defined as any change in financial circumstances which would affect financial eligibility for DSCC benefits as set forth in Section 1200.50 including, but not limited to changes in family size, income, or expenses). within thirty (30) days of such change:

B) The application process requires consent by the LRA(s) to release or to verify medical data and financial information provided as a part of the application process.

3) An LRA shall complete and sign a written application on behalf of the Applicant on forms specified by DSCC. Such application DSCC shall inform the Applicant of all relevant time deadlines with

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respect to filing of an application and appealing any adverse decision. An LRA may choose a person to assist in completing the application. A representative of a public agency may complete and sign the application for a child in that agency's custody. A representative of a private agency may complete and sign the application for a child if he/she is the authorized guardian for the child.

- 4) A completed application must be submitted to DSCC within the following time periods:

A) In the case of self-referral or referral by a medical provider or other agency, in all cases, a completed application for initial eligibility must be received by DSCC within 21 thirty (30) days from the date which it is originally sent to the BHA by BSEE of services for which assistance is desired. Applications not received within said 21-day 30 day period shall not be considered for reimbursement for treatment services rendered at the time of referral to BSEE but shall be processed for reimbursement of treatment services provided no more than 30 days prior to the actual date of receipt. This time period shall be adjusted by DSCC for good cause if DSCC is notified of the circumstances within the 21 30 day time period (for purposes of this clause, "good cause" shall include, but shall not be limited to, a family emergency, demonstrated delays caused by the U.S. Postal Service, and demonstrated delays caused by the Internal Revenue Service in providing a copy of an income tax return).

B) Applications for continuing financial eligibility shall must be submitted to received by DSCC within 21 days of the date which they are originally sent to the BHA by BSEE the current period of eligibility. If an application is submitted received after said eligibility time period, continuing eligibility shall recommence no more than thirty (30) days prior to the date the application is actually received by DSCC.

- 5) If financial support is desired, the LRA shall complete and sign a financial application on behalf of the Applicant on forms specified by DSCC, which shall be submitted within the time periods specified in Section 1200.30(d)(3)(4).

A) Such statement shall include a copy of the LRA's most recent filed federal income tax returns return. If an LRA is not required to file with the Internal Revenue Service, verification of income must be submitted.

B) DSCC shall accept other supporting documents from the LRA to verify level of income if DSCC determines that the documents provided prove the information sought and if the LRA has demonstrated diligence in attempting to obtain federal tax returns or pay stubs but has been unsuccessful in doing so.

C) DSCC shall accept supporting documentation from the LRA that

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reflects financial eligibility for services being provided by or reimbursed by the Illinois Department of Public Aid (IDPA) or any other state agency using criteria the same as or more stringent than DSCC.

- 6) If financial support is not desired, no financial application is required. Applicants with a Medically Eligible Condition who either do not desire or do not qualify for DSCC financial support shall be eligible for Programmatic Assistance.

7) Determination of eligibility is performed at the regional offices. (See 2 Ill. Adm. Code 5155. Appendix A.)

A) The DSCC staff shall verify the information provided on behalf of the Applicant. This will may include discussion, including an interview with the LRA, if the application is not complete. The interview shall be conducted at a place and time convenient to all parties.

B) If supplemental information required by DSCC to determine eligibility is not provided within fourteen (14) thirty (30) days after the LRA receives notice of a requirement that said information is needed to complete this application, DSCC shall then advise the LRA that the application will be invalidated and not given further consideration unless the LRA was precluded, due to causes beyond his/her control, from providing the information required.

C) A written decision regarding eligibility shall be sent to the LRA and any referring medical care provider or referring agency within thirty (30) days of receipt of the completed application unless the emergent nature of the child's condition requires a decision in a more timely fashion.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

Section 1200.40 Medical Eligibility

a) Eligible Medical Conditions

1) Within the resources available, the Division of Services for crippled Specialized Care for Children has determined that it can best serve children who: have cripping disabling impairments that are expected to be chronic; involve multiple physical defects/disabilities/handicaps; are amenable to treatment as determined by the treating physician; have a need for long-term highly specialized medical care including, as necessary, related habilitative services; and in the judgement of the treating physician have life expectancy sufficient to realize benefit from the treatment.

2) Currently, DSCC serves children whose cripping disabling impairments are enumerated in the list which follows. These conditions were determined as covered by the Director, in consultation with and upon advice of the Advisory Board.

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b) Medically Eligible Conditions

1) ORTHOPEDIC IMPAIRMENTS which are defined as those affecting bone, joint or muscle are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic orthopedic impairments amenable to treatment requiring long-term management involving specialist care and required related habilitative or rehabilitative services.

2) NERVOUS SYSTEM IMPAIRMENTS which are defined as those affecting the brain, spinal cord or peripheral nerves, and present as physical---disabilities persistent or recurring loss of consciousness, coordination, strength or sensation, but not cognitive or emotional disability, are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic neurologic impairments responsive to medical treatment requiring long-term management involving specialist care and required related habilitative services. Children in a chronic vegetative state would be eligible upon medically determined emergence of recovery and sufficient health stability for a program of active habilitation to be instituted (for purposes of this clause, a chronic vegetative state is defined as a condition in which a child displays no evidence of progressive positive developmental or neurological improvement, as determined by usual and customary medical standards).

3) CARDIOVASCULAR IMPAIRMENTS which are defined as primarily affecting the heart and the larger blood vessels are eligible. Such impairments may be of congenital or acquired origin, the latter representing a persisting result of previous infection, trauma, toxicity or disease or malignancy, and which are determined to be a chronic cardiovascular impairment responsive to treatment requiring multispecialist intervention and a program of extended supervision and/or long-term active management, specialized medical care and such related habilitation services as may be necessary. Children with a disease or past infection known to primarily affect the heart which predispose to chronic heart impairment and which requires specialist management to minimize or preclude such impairment would be eligible.

4) EXTERNAL BODY IMPAIRMENTS, including the oral and nasal structures with their extension into the mouth, pharynx, larynx, major bronchi and esophageal structures, defined as significant defects affecting the skin and/or its underlying structures and defects of the mucosa and/or its underlying structures of the above internal parts which may affect breathing, speech and eating. Such impairments must be determined to be beyond the

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normal range of acceptable external appearances or adequate function, as determined by a medical specialist, responsive to specialist(s) intervention and a program of long-term management with related habilitation services or subject to correction which would preclude chronic physical or functional impairment, and may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, disease, trauma, toxicity or malignancy. External body defects to be considered as beyond the normal range of accepted appearance are those defects considered to be major in the customary characterization of congenital defects or, if acquired, to be defects which fall outside of acceptable appearance as defined by the Division in consultation with its advisers. Defects of dentition and occlusion associated with severe oro-craniofacial structural deformities or if causative to impairment of intelligible speech are included.

5) HEARING IMPAIRMENTS which are defined as a loss of hearing or deafness of at least 30 decibels in two frequencies or a 35 decibel loss in one speech frequency involving one or both ears, as determined by audiometric testing are eligible. Such hearing loss may be of congenital origin, or may be a manifestation of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy and which are determined to be chronic hearing impairments responsive to treatment requiring otological intervention and a program of extended supervision and/or long-term active management. Children with middle ear infection and/or middle ear effusion persisting for longer than three months and who have received medical treatment are eligible for special medical and hearing assessment and evaluation of communicative skills. If a hearing impairment is defined, otologic treatment, monitoring of communicative skills and provision of hearing aids shall be provided if determined medically necessary in accordance with usual and customary standards. Children considered to be profoundly deaf and not amenable to otologic intervention and/or hearing aids, as determined through the application of usual and customary medical standards, shall be eligible for assistance to enhance the communication skills of the child (and family) if such assistance is not available from other agencies or sources.

6) SPEECH IMPAIRMENTS which are defined as an impairment of intelligibility arising from any structural defect of the organs responsible for vocalization or neurological defects specific to orderly speech development are eligible. Such speech impairments may be of congenital origin, or may be manifestations of an active chronic disease, or represent a persisting result of previous infection, trauma, disease or malignancy determined to be responsible for the chronic speech impairment which is responsive to medical treatment requiring long-term management involving specialist care and related habilitative services and

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equipment. Developmental language deficits are not eligible (for purposes of this clause, a developmental language deficit is defined as a condition, as determined by the application of usual and customary medical standards, that can be expected to correct itself with maturation or with such therapy as is generally available through the public school system).

- f) CYSTIC FIBROSIS. Children with cystic fibrosis are eligible if they manifest symptoms amenable to specialized medical care and long-term management by a team of specialists organized for this purpose.

- 8) HEMOPHILIA and similar genetic-disorders chronic defects of coagulation or chronic hemorhagic conditions are eligible. Eligibility for services shall be established in accordance with Rules of the Illinois Department of Public Health under "AN-Act establishing-in-the-Illinois-Department-of-Public-Health-a program-for-the-care-of-persons-suffering-from-hemophilia, establishing-a-hemophilia-advisory-committee-and-designating powers-and-duties-in-relation-thereto" the Hemophilia Care Act (Ill. Rev. Stat. 1967 1991, ch. 111 1/2, pars. 2900 et seq.) and Rules promulgated thereunder, 77 Ill. Adm. Code 705. Eligible persons shall receive such services as may be provided by the Illinois Department of Public Health in accordance with the rules aforescribed. DSCC shall provide children case management and financial support of hospitalization, outpatient care and such additional services as may be required for specialized medical and related rehabilitative services, including home management, except that a Recipient Child not eligible for services from the Illinois Department of Public Health as provided above shall receive required services through the Division.

- 9) INBORN ERRORS OF METABOLISM which are defined as those newborn conditions leading to severe neurological, mental and physical deterioration for which there are acceptable treatments which, when promptly instituted, would preclude or significantly minimize the adverse effects of the metabolic defect are eligible.

- 10) EYE IMPAIRMENTS which are defined as those affecting the eye and/or eye muscles, but excluding isolated refractive errors, are eligible. Such impairments must lead to or cause a significant risk of loss of vision and be chronic impairments which are determined to be responsive to treatment requiring ophthalmologic, medical or surgical, intervention and a program of extended supervision and/or long-term active management. In determining whether an eye impairment may be responsive to a program of extended supervision and/or long-term active management, the following factors must be present: that without treatment, the condition would be expected to last at least six months; and that extended and long-term active management shall require medical supervision of at least six months. Such impairments may be of congenital origin, or may be a

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manifestation of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity or disease. When required as part of an approved management program not involving services or equipment prohibited by Section 1200.80(a) and approved pursuant to Sections 1200.80(b) and (c), and prescribed by the managing ophthalmologist, treatment of associated refractive errors is eligible. Children considered to be blind and not amenable to ophthalmologic intervention, as determined through the application of usual and customary medical standards, are not eligible.

- 11) URINARY SYSTEM IMPAIRMENTS which are defined as those chronic organic impairments affecting the kidney, ureter, bladder, and/or urethra, but excluding urinary tract infections, and isolated ureteral urinary reflux unless associated with a persistent structural defect, are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic, amenable to treatment requiring long-term medical or surgical management involving specialist care and required related rehabilitative or rehabilitative services. Children requiring chronic renal dialysis and/or renal transplantation are not eligible.

- c) Health care services defined as "well child care," routine medical and dental treatment, medical care of acute childhood illnesses (defined as diseases which are not normally chronically disabling and which are not unusual in the course of a child's maturation) or trauma or short-term complications related thereto, are not provided by DSCC.

- d) Health care services for children whose crippling impairment is considered to be "acute" as an immediate associated consequence of infection, trauma, disease, toxicity or malignancy, would be considered eligible after completion of medical treatment of such acute condition and determination of a resulting crippling-impairment persisting disability.

- e) Care Beyond Medical Eligible Conditions
Children with the chronic crippling-impairments disabilities which are defined in this Section as Medically Eligible Conditions may have associated health impairments which, as isolated health impairments, would not be considered as medically eligible for DSCC services. However, in order to achieve a realistic-rehabilitation-goal successful treatment of the eligible condition, if medically recommended, the services required to treat such associated health impairments will be provided to Recipient Children, except those related to a malignancy or to a chronic vegetative state. Treatment of such associated health impairments must relate-to be necessary for successful treatment of the Medically Eligible Condition and will continue to be provided only so long as the Recipient Child has a Medically Eligible Condition which is under continuing and active medical treatment. Further, if at any time, one of these other than Medically Eligible Conditions

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becomes the Recipient Child's primary health problem, as defined by the Recipient Child's attending physician principal medical condition, these additional services will be discontinued.

(Source: Amended 3 at 17 Ill. Reg. 1137, effective March 8, 1993)

Section 1200.50 Financial Eligibility

- a) The LRA has an obligation to meet the cost of medical care for his/her Recipient Child to the extent they are able. Full or partial financial assistance, in the form described in Section 1200.90 of this Part, is provided to LRAs who are unable to meet such expenses from their own resources as established through a Financial Need Determination performed pursuant to criteria established in Section 1200.50(c) and (d).

- b) Exceptions to Financial Need Determination

- 1) DSCC provides diagnostic services necessary to determine medical eligibility without regard to the economic status of an Applicant's LRAs.

- 2) Financial information is not required from LRAs when:

- A) medical eligibility is uncertain;
B) no expenditure of DSCC funds is anticipated;
C) the child is a ward of the state agency which is financially responsible for the child's medical care;
D) the child has been determined eligible for services being provided by or reimbursed by a state agency using criteria the same as, or more stringent than, DSCC.

- c) Criteria for Financial Assistance

- 1) Financial eligibility is based upon the financial status of the LRA requesting financial assistance.

- 2) The Income Scale (Appendix A) and the Payment Scale (Appendix B) are used to determine financial eligibility. The Income Scale represents 65% of the gross median family income adjusted for family size as developed for the State of Illinois by the U.S. Department of Health and Human Services, Family Support Administration under the provisions of Section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Although this scale is derived from gross income figures, for purposes of financial eligibility, a family is placed on the scale according to its Adjusted Family Income and family size.

- j) Full financial assistance is provided when the Adjusted Family Income considering family size is equal to or less than that which is allowable in accordance with the Income Scale. The LRA and attorney must submit a Reimbursement Agreement, if applicable, as provided in Section 1200.30(c)(3)(C).

- 4) Partial financial assistance is provided when the Adjusted Family Income considering family size exceeds the amount allowable on

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the Income Scale, subject to the following conditions:

- A) A determination that the annual family payment as established in the Payment Scale is less than the anticipated cost of services for the proposed period of eligibility;

- B) Completion of a Financial Participation Agreement (FPA) by the LRA. An FPA will be required whenever the LRA of a Recipient Child is eligible for partial financial assistance. The FPA shall be signed and returned to DSCC within ~~fourteen~~ thirty (30) days of its receipt by the LRA.

- i) The FPA obligates an LRA to pay for DSCC approved care for the Recipient Child. The amount will be equal to the annual family payment described by the Payment Scale. DSCC will use this money to pay for the child's direct and related care.

- iii) ~~Payments toward the obligations contained in the FPA may be made by the LRA(s) directly to the vendor(s) providing specialized care for the Recipient Child if agreed to by DSCC. The LRA shall retain receipts to verify such payments.~~

- iii) The FPA shall cover all Recipient Children in one family.

- C) Submission of a Reimbursement Agreement by the LRAs and attorney(s), as provided in Section 1200.30(c)(3)(C), if applicable.

- D) Adjustments to the annual family payment shall be made by DSCC if there is evidence in the application or through additional information that indicates the LRA has the ability to assume cost-sharing beyond the amount previously indicated based upon application of the financial eligibility criteria in this Section 1200.50.

- b) The LRA shall be determined ineligible for financial assistance from DSCC when:

- A) It is determined that the Adjusted Family Income is in excess of \$10,499 of that which is allowable in accordance with Appendix A, the Income Scale.

- B) ~~It is determined that the LRA's annual family payment would exceed the anticipated costs of care after application of anticipated insurance benefits.~~

- E) An LRA has failed within the time periods established in Section 1200.30(d) to provide sufficient information to determine eligibility. In such instances, eligibility shall commence 30 days prior to the postmark date or, if unavailable, the date of receipt of such information necessary to establish eligibility.

- B) An LRA has failed within the time period established in Section 1200.30(d) to complete and sign the application (including the financial application), the Reimbursement

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Agreement (Section 1200.30(c)(3)(C)), if applicable, and an FPA, if applicable (Section 1200.50(c)). In such instances, eligibility shall commence 30 days prior to the postmark date or, if unavailable, the date of receipt of the signed application, and/or Reimbursement Agreement, and/or FPA.

B) The family is fully enrolled in the Illinois Comprehensive Health Insurance Program or a Health Maintenance Organization (HMO) which has responsibility for provision of medical care for the Applicant or Recipient Child. However, families with HMO coverage are eligible for financial assistance to the extent that the HMO has no responsibility for such care.

P) In addition, the LRAs shall lose their financial assistance if:

i) Medical insurance payments or other forms of payment available or paid directly to the LRA to meet the cost of care for the Recipient Child have not been applied to the cost of care arranged, authorized, and paid by DSCC for that child. In such instances, eligibility shall be reinstated upon reaching an agreement for repayment to a medical care provider or the LRA may reapply for assistance upon repayment to DSCC of an amount equal to the medical insurance payments made available but not applied toward the child's cost of care.

ii) An LRA has not complied with the payment schedule established in the FPA with DSCC. In such instances, eligibility shall be reinstated once the LRA has demonstrated that he/she has complied with the FPA by making the required payments the LRA may reapply for assistance once the required payment has been made to DSCC.

iii) An LRA fails to notify DSCC within thirty (30) days of any change in the child's medical insurance which results in medical coverage for costs which are currently paid for by DSCC.

iv) It is determined that the LRA has in any way falsified documents used to determine eligibility.

6) LRAs determined to be wholly or partially ineligible shall be advised of the right to appeal the determination in accordance with the procedures as set forth in Section 1200.60.

7) Period of Financial Eligibility

A) Financial eligibility shall be established for a 12-month period of up to twenty-four (24) months commencing on the first day of the month of referral or application, whichever is earlier no sooner than thirty (30) days prior to the date a completed application is received by DSCC if applicants are able to provide current federal tax information. For purposes of this Section, referral shall be defined as a

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first contact made with a BSCC intake worker current federal tax information shall be defined as the tax information for the calendar year prior to the year of application; or
B) Financial eligibility shall be redetermined annually on the date established at subsection (7)(A) above established for a period of up to twelve (12) months commencing no sooner than thirty (30) days prior to the date a completed application is received by DSCC under the following circumstances:

i) Applicants able to provide federal tax information not older than one (1) year prior to the current federal tax information.

ii) Applicants not required to file federal income tax forms as defined by the federal Internal Revenue Service. Income must be verified using two (2) consecutive pay stubs that are within two (2) months of application.

iii) Applicants determined to have a Financial Participation Agreement.

iv) Applicants determined financially eligible on the basis of eligibility for services being provided by or reimbursed by the Illinois Department of Public Aid (IDPA) or any other state agency using criteria the same as or more stringent than DSCC.

e) Financial eligibility ordinarily begins at the date of referral or application for BSCC assistance unless circumstances beyond the control of the child and the LRA precluded timely application or referral. If BSCC, after its own investigation, determines that such circumstances exist, eligibility shall commence thirty (30) days prior to the date of referral or application to BSCC, whichever is earlier. Only such care or services which would have been approved as meeting BSCC standards of care, as set forth in this Part, for the child shall be considered for this period of retroactive eligibility.

C) When more than one child in a family is eligible for financial assistance, the period of eligibility for all eligible children will be for the same period.

D) Financial eligibility shall be redetermined subject to the date established at subsection (7)(A) and (B) above.

P) The period of financial eligibility may be less than 12 months under the following circumstances:

i) DSCC eligibility was based upon eligibility with the Illinois Department of Public Aid (IDPA) or any other state agency and such eligibility has been cancelled. Eligibility for DSCC benefits shall be cancelled at the same time that IDPA or the other state agency eligibility is cancelled. The LRAs must reapply by submitting the same financial information as is

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required-of-all-applicants:

- ii) The Recipient Child, at the time of financial evaluation, was a ward of an agency or court because adoption had not been finalized, and the adoption is finalized. DSCC eligibility shall terminate on the effective date of the finalization of the adoption.
- iii) Supplemental information submitted pursuant to Section 1200.30(d)(2)(A) of this Part causes a change in financial eligibility.
- iv) Verification-of-income-is-from-sources-which-are-more-than-12-months-old-at-time-of-submission---in-such-event-BSEE-shall-establish-a-period-of-eligibility-of-sufficient-duration-to-permit-the-applicant-to-submit-information-with-respect-to-income-from-sources-which-are-less-than-12-months-old:

B)F) In the event that an LRA submits information, at any time, which, upon verification by DSCC, establishes that the LRA is eligible for financial assistance at a level in excess of that previously approved by DSCC, a new one-year period of eligibility shall begin fifteen (15) days after said information-is-submitted, on the date said information is received by DSCC, provided that the LRA has signed a revised FRA, if one is required pursuant to subsection (c)(5)(4)(B).

d) Financial Determination Calculations

- 1) Family Size
 - A) Family size shall be determined by the sum of the number of persons in each of the following categories when they share the same household. However, if a person falls into more than one category, that person shall be counted only once:
 - i) The Applicant or Recipient Child;
 - ii) The Applicant or Recipient Child's spouse;
 - iii) An LRA and his/her spouse;
 - iv) Other persons who, for Federal Income Tax purposes, are deemed dependents of an the applying LRA.
- 2) The family's Annual annual Gross Total Income shall be the sum of the Annual-Gross-income all income of persons comprising the family unit, as determined above but excluding income of dependent children except income of the dependent Applicant or Recipient Child and his/her spouse. Total Income shall include all income as defined by the Internal Revenue Service for federal income tax reporting purposes. Annual-Gross-income-includes:--
 - A) Wages; salaries; bonuses; other earnings; and tips;
 - B) All interest-and-dividends-from-financial-institutions--and investments-and-from-stocks-and-bonds;
 - C) Alimony; child-support payments-received;
 - B) income--from--pensions, annuities, and other retirement-fund sources;
 - B) income-from-Social-Security;
 - U) Unemployment-compensation;

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- G) Workers'-compensation;
- H) Disability/sick-leave-payments;
- I) income-from-rents-royalties-partnerships-estates-trusts-corporations--farms--and-businesses--after--expenses--to-produce--such--income--are--deducted---Depreciation--and/or depletion--allowances--except-on-real-estate-may-be-deducted-from-said-income;
- J) Capital-gains---All--capital--gains--shall--be--treated--as ordinary--income--for--purposes--of--determining--a-family's Annual-Gross-income-except-capital-gains-realized--from--the sale--of--a--family-residence-which-shall-be-excluded-in-its entirety;
- K) All-supplemental-gains-income;
- L) All-other-earned-and-uneared-income-which-may-be-applied toward--the--cost--of--care--for--the-Applicant-or-Recipient Child;
- 3) Income-from-the-following-sources-shall-be-excluded-for--purposes-of-determining-financial-eligibility:--
 - A) The--income--of--dependents--(other--than--the--Applicant--or Recipient-Child-and-his/her-spouse)--under--the--age--of--21;
 - B) Irregular-income-of-not-more-than-\$150-quarterly;
 - C) Scholarships-grants-or-loans-to-a-student-for-educational purposes;
 - B) The--value-of-coupons-or-other-subsidies-provided-to-income families-by-a-governmental-organization-or-program;
 - E) Lump-sum-payments-from-insurance-received-due-to--the--death of-an-BRA;
 - F) Money-borrowed;
 - G) Funds--held--in--a--trust--which-are-legally-unavailable-for payment-of-the--Applicant's--or--Recipient--Child's--medical expenses;

4)J) The following are allowable expenses which the family may deduct from their Annual annual Gross Total Income in determining financial eligibility:

- A) Payment-of-support-for-non-dependent-children-not-to-exceed \$17000-per-child/per year;
- B) Child-care-costs-that-enable-an-BRA-to-maintain-employment;
- C) Expenses--which-enable-an-BRA-to-maintain-employment-not-to-exceed-\$50-per-month-for-each-employed-BRA;
- B) Medical/health-insurance-premiums;
- B) Expenses-not-recoverable--through--any--insurance-plan--or other--third-party--payors--including--donated--funds--as follows:--
 - i) Medical--and--medically--related--expenses---including dental-expenses-of-the-Applicant-or-Recipient-Child;
 - ii) the amount-of-medical and dental-expenses-paid-for members-of-the-family--other--than--the--Applicant--or Recipient-Child--which-is--in-excess-of-2.5%--of--the family Annual-Gross-income;

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iii) ~~the amount of any loss caused by fire, flood, or other natural disasters, theft, or vandalism which is in excess of \$1000.~~

A) The larger of:

i) ~~The federal income tax Standard Deduction Rate based on the LRA's federal income tax filing status used to determine financial eligibility;~~

or

ii) ~~The total itemized deductions as reported on Schedule A of the LRA's federal income tax return used to determine financial eligibility.~~

B) ~~Child and dependent care costs in accordance with the guidelines established by the Internal Revenue Service for federal income tax reporting purposes.~~

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

Section 1200.60 Appeal Process

a) Notice of Determination

1) Except as otherwise provided in these Rules, the Division shall notify the Applicant's LRA in writing within thirty (30) days of the receipt of the completed application that the Division has determined that the Applicant is eligible or ineligible, and the amount, if any, of the LRA's required financial contribution to the cost of the Applicant's medical care. If the Applicant or LRA is determined to be ineligible, the Notice of Determination shall state the reasons for said determination.

2) In the event that DSCC has requested additional information in order to determine eligibility, ~~including continuing eligibility~~, or has requested the LRA to sign a Reimbursement Agreement or an FPA and the request has not been complied with within the time period set forth in Section 1200.50, DSCC shall notify the LRAs that the application shall be considered inactive and provide the reasons therefor.

3) The Division shall notify a Recipient Child's LRA in writing of any action which the Division intends to take which adversely affects the LRA's financial eligibility. ~~including, but not limited to termination or increase in the amount of the LRA's required financial contribution to the cost of the Recipient Child's medical care.~~ This written notification shall provide specific reasons for the action being taken. This written notification shall be sent to the Recipient Child's LRA at least thirty (30) days prior to the effective date of the proposed action.

4) ~~A copy of this Section~~ An explanation of the LRA's right to appeal shall be sent with each Notice of Determination provided pursuant to subsection (1)-(3) immediately above.

5) The Notice of Determination described at subsection (1)-(3) immediately above and all further written notices which bear on it shall be sent by certified or registered mail to the LRA at his/her last known address. If the Applicant or Recipient Child has a designated representative, a copy of all written notices will also be sent to that designated representative.

b) Right to Reapply

1) If the Applicant or Recipient Child's LRA has been determined to be ineligible, they may reapply at any time they believe they have become eligible.

2) If the Recipient Child's financial eligibility has been reduced or has been set at a level less than full financial assistance, the LRAs may submit additional financial information at any time their financial situation changes.

c) Right to Meeting and Appeal Conference

1) The Applicant or Recipient Child's LRA, or designated representative, has a right to a meeting with the DSCC staff person responsible for a decision reflected in any Notice of Determination issued pursuant to subsection (a)(1)-(3).

A) The request for such a meeting must be made in writing and must identify the decision which is being questioned.

B) The request must be made within 14 days of receipt of said Notice of Determination.

C) DSCC shall contact the requester within five (5) days of receipt of the request in order to schedule a meeting date, time and place.

D) Within seven (7) days after the meeting, DSCC shall notify the Applicant or Recipient Child's LRA of the result of the meeting. Such notification shall be in the manner set forth at Subsection (a)(5) immediately above and shall state the reasons for the decision made.

2) The Applicant or Recipient Child's LRA, or designated representative, has a right to appeal the results of meeting decision to the Director in a conference with the Director or his/her designee held for that purpose. The Director shall not take part in any original decision or any initial meeting held under subsection (c)(1).

A) The request for such an appeal conference must be made in writing and must identify the meeting decision which is being appealed.

B) The request must be made within 14 days of receipt of notification of result of the subsection (c)(1) meeting.

C) DSCC shall contact the requester within five (5) days of receipt of the request in order to schedule a meeting date, time and place.

D) The Director or his/her designee shall consider the decision issued pursuant to subsection (c)(1)(D), any written material presented at the meeting provided for in subsection (c), any evidence presented at the conference, and all other

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information which the Director or his/her designee obtains through an independent investigation of the issues raised by the appeal.

- E) Within seven (7) days after the appeal conference, DSCC shall notify the Applicant or Recipient Child's LRA of the result of the appeal conference. Such notification shall be in the manner set forth at subsection (a)(5) above and shall state the reasons for the decision made.

- F) The decision rendered by the Director or his designee is final.

- d) Procedural Rights at Meeting and Conference
The Applicant or Recipient Child's LRA, or designated representative, has the following rights:

- 1) The right at any time to inspect and copy the contents of the Applicant or Recipient Child's case file and any other documents used by DSCC in making its determination or proposing its action; and
 - 2) The right to appear on their own behalf and/or to be represented, advised and/or accompanied by a relative, friend, lawyer or advocate; and
 - 3) The right to present relevant information, witnesses and evidence in any form; and
 - 4) The right to ask questions of the Division staff present.
- e) DSCC may deny or dismiss a meeting or appeal conference if:
- 1) The Applicant or Recipient Child's LRA, or designated representative, withdraws the request for the meeting or appeal conference in writing; or
 - 2) The Applicant or Recipient Child's LRA, or designated representative, fails without good cause (defined as any reason which a prudent person would deem to be an adequate and complete excuse for failure to act, such as emergencies and family deaths) to appear at the scheduled meeting or appeal conference.

- f) Benefits While Awaiting Decision

- 1) LRAs of Applicants who are denied financial assistance benefits may appeal the denial but shall not receive any financial benefits in behalf of the Applicant while awaiting the meeting or appeal conference.
 - 2) LRAs of Applicants who are granted less than full financial assistance may appeal the decision but the LRA in behalf of the Applicant shall only receive such partial financial assistance as originally determined while awaiting the outcome of said meeting or appeal conference.
 - 3) An LRA who is notified of a termination or reduction of financial assistance benefits shall continue at his/her prior level of financial assistance while awaiting the meeting or appeal conference, provided that the LRA requests said meeting and appeal conference within the time limits designated in subsection (c)(1)(b) and (c)(2)(B).
- g) Effective Dates of DSCC Decisions

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- 1) If the decision of a meeting or appeal conference is in favor of an applicant's LRA, the financial assistance benefits determined appropriate as a result of the appeal shall be effective from the date of the initial completed application or referral, whichever is earlier.
- 2) If a Recipient Child's LRA does not appeal, a Notice of Determination of termination or reduction of DSCC benefits, the effective date thereof shall be as provided for in subsection (a)(3).
- 3) If a Recipient Child's LRA appeals a Notice of Determination of termination or reduction of DSCC benefits, no such termination or reduction shall be effective until ten (10) days after all appeal rights have been waived or exhausted.
- 4) Notwithstanding anything to the contrary contained herein, if Notice is sent to an LRA pursuant to subsection (a)(3) of this Part, based upon a failure of the LRA to comply with the requirements of Section 140.30(d)(1)(A) of this Part relating to reporting of changes in financial condition or family size, and if DSCC determines to act in reducing or terminating LRA financial benefits to the extent such is permitted to it hereunder, after all LRA rights to appeal have been exhausted or waived, then said action shall be deemed to be effective on the forty-fifth day after the unreported change in family circumstances occurred, regardless of when the notice provided for in subsection (a)(3) is actually sent to the LRA. Nothing contained in this Part shall be construed as reducing any rights of the LRA to object to any proposed DSCC action or as may be otherwise provided in this Part and no DSCC action shall be final unless and until all such rights have been exhausted or waived.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993.)

Section 1200.70 Payment for Services

- a) With respect to Medicaid, Medicare, Illinois Comprehensive Health Insurance Program (CHIP), any other medical insurance plan or policy or other third-party payers, unless prohibited by law, DSCC shall be deemed the payer of last resort. Nothing contained in these regulations shall authorize or require DSCC to provide payment for medical services, hospital services, supplies or appliances which would otherwise be paid by Medicaid, Medicare, Illinois Comprehensive Health Insurance Program (CHIP), any other medical insurance plan or policy or other third-party payers, including donated funds and such other funds available for medical care derived from settlement of injury claims.
 - b) Payments for services are subject to the availability of funds as determined by the University of Illinois in its sole discretion.
- 1) If DSCC determines, based upon its own internal auditing and

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record keeping systems, at any time, that it does not have or will not have sufficient funds to provide payments for authorized services for additional Applicants, DSCC shall:

- A) Cease accepting applications.
- B) Post notices in conspicuous places in DSCC offices and clinics and in other places where such notices are likely to be seen by Applicants. The notices shall state that DSCC is no longer accepting applications because of insufficient funds, and shall state the probable date on which DSCC shall again accept applications. Notices will also be posted in a like manner when funding again becomes available.
- C) DSCC employees shall inform clinic patients and other persons that DSCC is no longer accepting applications because of insufficient funds, and shall inform such persons of the probable date on which the Division shall again accept applications.
- D) Cease authorizing additional health care services for Recipient Children whose LRAs are eligible for DSCC financial assistance.
- 2) If DSCC determines, based upon its own internal auditing and record keeping systems, at any time that it does not have or will not have sufficient funds to provide payments for authorized services for Applicants who have applied, but with respect to whom no determination of eligibility has been made, DSCC shall nevertheless finish processing those applications and determine the eligibility or ineligibility of each such Applicant and his/her LRA for use in the event that additional funds become available. In such event, the LRAs of eligible applicants shall be provided funding in the order received unless a child's life or good health is threatened in which event said child's application will be given priority.
- 3) DSCC shall make payments for authorized services in the order in which DSCC receives bills for such services.
- 4) If DSCC determines due to nonavailability of funds that it is unable to pay for an authorized service, it shall cancel the authorization and any related purchase order any time up to the point at which services have been provided. For this purpose, the authorization and related Purchase Order shall contain the following statement: "This authorization is subject to all of the various rules and procedures set forth at 89 Ill. Adm. Code 1200r-adopted February 197-1987." In the event any authorization is cancelled pursuant to this limitation, any charges incurred for services rendered after the date of cancellation shall not be the obligation of DSCC.
- 5) Except as otherwise specifically provided herein in the event that DSCC determines that it does not or will not have sufficient funds to provide payments for all Applicants, present and future, as well as to make payments in behalf of all Recipient Children, it shall first cease accepting applications in accordance with

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subsection (1) above. If after taking such action, it is still determined that sufficient funds are not available, it shall take the actions set forth in subsection (2) above. If after taking such action, it is still determined that sufficient funds are not available, it shall take the actions set forth in subsections (3) and (4) above. In the event that the life or good health of a child is threatened if a procedure is not performed, DSCC shall give funding such procedure priority over other procedures not posing such threat.

- c) The Director shall establish a maximum dollar amount for payment of authorized non-physician services per fiscal year which shall be applied to each child. DSCC shall provide notice of the limit to all Recipients and Health Care Facilities who may be affected.
- d) By accepting a DSCC authorization, the Health Care Provider agrees not to seek further payment from the patient or the patient's family for such authorized services beyond the amounts available from insurance, DSCC, Medicare, or Medicaid. In those cases where DSCC has notified the Provider that money is no longer available from DSCC, the Provider shall not be so restricted.
- e) Insurance
 - 1) All Maximum insurance benefits must be used. The LRA is responsible for complying with insurance contract provisions required to maximize the level of insurance benefits.
 - 2) Payment for authorized services for children with insurance benefits shall not be made until insurance has paid or rejected the claim. Subject to all the limits on benefits as contained in these Rules, DSCC will pay the cost of all required services above that reimbursed by insurance up to an established rate of payment. The Director shall approve payment for authorized services prior to settlement of the insurance claims if such is necessary to avoid undue suffering or to preserve life and good health, and if immediate payment will cause DSCC funds to be utilized in the most efficient and effective medical standards.
 - 3) The family shall notify DSCC within thirty (30) days of any change in the child's medical insurance coverage which results in coverage of costs which are currently paid for by DSCC.
 - 4) DSCC will not provide reimbursement for minor occasional costs of a Recipient Child's treatment. For purposes of this clause "minor costs" shall be defined as charges for supplies, equipment, replacement parts, repair and replacement of equipment, and drugs less than \$25 each. "Occasional costs" shall be defined as costs occurring less frequently than once per month. In the event that minor costs are not occasional, they may be aggregated by the LRA and will be authorized by DSCC.
- f) Submittal of Claims
 - 1) In order to be eligible for payment consideration, a provider's/vendor's payment claim or bill, either initial or resubmittal following prior rejection, must be received by DSCC

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no later than nine (9) months from the date on which medical services, appliances or supplies are provided, ~~or--date--of authorization--whichever--comes--first~~: This includes third party payment or denial information.

- 2) Claims which are not submitted and received by DSCC in compliance with the requirements of subsection (g)(1) will not be eligible for payment under DSCC's medical program. DSCC and the patient or patient's family or guardian shall have no liability for any payment thereof.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

Section 1200.80 Availability of Services

a) Limitations

DSCC will not provide the following:

- 1) Organ transplants and related anti-rejection drugs.
- 2) Surgery which is primarily for cosmetic purposes.
- 3) Research or experimental medical or professional services, hospital services, drugs, devices or equipment.
 - A) Research or experimental medical or professional services, hospital services, drugs, devices or equipment is defined to include services, drugs, devices or equipment which have not been recognized as having a proven rehabilitative value as determined by the professional standards of the applicable medical or health care specialty groups, including but not limited to:
 - i) equipment or appliances that do not have the approval of the Department of Health and Human Services Food and Drug Administration or other appropriate federal agency (Investigational New Drugs and Devices and investigational services and treatments shall not be deemed to have received such approval);
 - ii) medical and/or other health related services, including drugs, food supplements, equipment or appliances not reported on, described, or discussed in published and recognized professional journals which have an advisory board passing on its publications;
 - iii) services, drugs, devices, equipment or appliances that have not been recognized by appropriate national professional organizations.
- B) If a Health Care Provider wishes to utilize medical services, equipment or appliances which are identified as possibly research or experimental, the provider must provide a written justification for doing so. Other pertinent information from knowledgeable professional sources may be obtained by the Health Care Provider. The DSCC Director shall determine whether services, equipment or appliances

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are, in fact, experimental or research based on the information supplied and the criteria at subsections (A)(i)-(iii), immediately above.

- C) If DSCC authorizes a Health Care Provider to perform medical services or hospital service, or to purchase equipment or supplies later determined by DSCC as research or experimental, and if said Provider has failed to notify DSCC in advance of the possible experimental or research nature thereof, the Provider shall be obligated to refund any monies paid to it by DSCC or the LRA to perform such procedure or purchase such item.

b) Authorization: General

- 1) Except as otherwise specifically provided in Section 1200.80(c)(5), all health care services, equipment or drugs to be purchased for individuals by DSCC, including diagnostic evaluation services (See: Section 1200.80(d)), must be preauthorized, i.e., authorized by DSCC before their delivery. Such authorizations shall be to specific Health Care Providers and shall specify the services to be provided.
- 2) Prior to any services, equipment or drugs being authorized by DSCC, a completed application must have been submitted to DSCC and eligibility established for the DSCC program.
- 3) All authorizations are recorded as part of the individual patient's case record.
- c) Authorization Procedure
 - 1) An authorization for health care services, equipment or drugs must be requested from DSCC.
 - A) Any person may request that DSCC issue an authorization, but authorizations will not be effective until DSCC receives notice from a Health Care Provider which documents the need for and extent of the services, equipment or drugs to be provided to the Recipient Child. This notice may be either written or oral.
 - B) Services, drugs or equipment which are duplicative of those authorized or exceed authorized limits or are arranged without prior notification to and concurrence by DSCC shall not be authorized.
 - 2) Authorizations will be issued for health care services, drugs or equipment only to a specific Health Care Provider and then only if Provider meets the criteria established in this Part, has evidenced a willingness to participate in the DSCC program, agrees to accept DSCC rates of payment, and agrees to abide by DSCC administrative procedures, as set forth in this Part.
 - A) DSCC maintains lists of qualifying, currently participating, Health Care Providers.
 - B) If the LRA or Recipient Child wishes to use a particular Health Care Provider, not currently participating in the DSCC program, that Provider will be immediately added to the DSCC program if upon confirmation that said Provider meets

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- all the standards enumerated above.
- 3) All hospitalizations and all equipment purchases are subject to separate authorizations for each occasion of such service.
 - 4) Children receiving DSCC services shall be preauthorized a certain set number of professional outpatient service visits if such is determined medically necessary and said services will be furnished by a specific Health Care Professional or Facility. Upon medical recommendation for additional services, separate issuance of authorization(s) will be required.
 - 5) Exceptions to the pre-authorization requirement:
 - A) The initial medical referral of a child to DSCC may be concurrent with the first visit to an approved Health Care Professional or Health Care Facility. Upon submission of a ~~referral--from--the--Health--Care--Professional--or--Provider~~ and/or an completed application by an LRA (within thirty (30) days of the time services were rendered), an authorization for the afordescribed initial medical service will be issued if the applicant and LRA are determined eligible for the DSCC program and if the services provided are determined by DSCC to be medically necessary through the application of usual and customary medical criteria. (Note: payment for such services is subject to the time limits on retroactive benefits.)
 - B) Retroactive authorizations for services provided will may be made unless:
 - i) the service was not provided during a period of eligibility except as provided in (A), immediately above;
 - ii) DSCC was not notified within thirty (30) days after the service was provided;
 - iii) funds are not available to make the reimbursement, as determined by DSCC in accordance with Section 1200.70(b);
 - iv) the service was provided by a Health Care Facility or by a Health Care Professional not pre-approved by DSCC as meeting the Standards for Medical Personnel (Section 1200.100) or Standards for Facilities (Section 1200.110); unless the service provided was an emergency, as determined by usual and customary medical standards, in which case the service will be retroactively authorized if the Facility or Professional providing the service is deemed by DSCC to meet the standards of this Part after the request for reimbursement is received;
 - v) the LRA has privately arranged for services with a Health Care Provider expecting private sources of reimbursement at the level of their usual and customary charges; unless said Provider subsequently agrees to accept the DSCC level of reimbursement.

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- d) The Diagnostic Evaluation Program (Diagnostic Services)
 - 1) DSCC provides for early identification and diagnostic evaluation of children eligible for the DSCC treatment program through a qualified professional and support staff within DSCC, through a clinic system which is organized and operated in cooperation with Health Care Providers from various regions and through relationships with Health Care Providers in the private-voluntary sector throughout the state.
 - 2) ~~Necessary--Diagnostic--Services~~ Services necessary to determine medical eligibility are provided without charge above available insurance or other forms of reimbursement regardless of family financial circumstances.
 - 3) In specified areas outside of Chicago, DSCC arranges for field clinics with special or general scope to meet on a periodic basis. These clinics are staffed by Health Care Professionals participating in the DSCC program and are available for Diagnostic Services as well as certain treatment services.
 - 4) In the City of Chicago, DSCC utilizes established outpatient clinics associated with DSCC approved Health Care Facilities to perform Diagnostic Services. This list is available to the general public and these facilities may be utilized at any time, since there are not specific "DSCC clinic times" at these Facilities.
 - 5) All Applicants requiring Diagnostic Services must receive an Authorization from DSCC and must make a specific appointment for the evaluation, in accordance with the rules and procedures of that Health Care Facility.
 - 6) If DSCC is able to determine, from an interview or from other existing information, that an Applicant is ineligible, Diagnostic Services shall not be performed.
 - 7) All Diagnostic Services must be provided on an outpatient basis unless inpatient services for this purpose are specifically approved by the Director who shall approve such services when they are medically required to complete the diagnostic evaluation.
- e) The Treatment Program
 - 1) DSCC provides for treatment and follow-up services through a qualified professional and support staff within DSCC, through the field clinic system outside the City of Chicago, through DSCC approved Health Care Professionals and Facilities in Chicago, and through Health Care Providers throughout the state. The DSCC program is oriented in large part around a clinic or "specialized centers" model to encourage coordinated multi-specialist involvement with DSCC recipient children.
 - 2) The services provided through the DSCC Treatment Program include, when determined medically necessary by a Recipient Child's treating physician(s), the following:
 - A) Consultative services through a Health Care Professional or Facility.

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- B) Continuing outpatient supervision furnished by Health Care Professionals including office visits or by a Health Care Facility in a clinic, if such would more adequately meet the health care needs of the Recipient Child based on all applicable medical criteria than would a DSCC field clinic.
- C) Hospitalization and inpatient medical and/or surgical treatment including special rehabilitation services. Provided, however, that procedures, tests, or services shall not be performed on an inpatient basis if, under medical professional standards such procedures, tests, or services are usually and customarily performed in outpatient facilities, except that such procedures, tests, or services shall be performed on an inpatient basis if determined to be medically indicated by the Director based on the recommendation of the Recipient Child's treating physician(s).
- D) Convalescent care to the extent available and required as an intermediate service to continued hospitalization.
- E) Home based care intended to prevent continued hospitalization or similar-type medical placement, as determined desirable and feasible applying all medical standards. Such care is limited to training of parents and/or community health care providers; provision of recommended equipment and supplies; and, as necessary, periodic visiting nurse and/or related health personnel supervision. DSCC does not provide continuing care nursing, life support systems, or high technology equipment and related supplies but will help the LRA locate funding sources for these services, if they are determined to be medically necessary.
- F) Assistive appliances, approved by DSCC, such as braces, prosthetic limbs, hearing aids, wheelchairs and related adaptive devices and special supplies determined medically necessary to accomplish rehabilitation goals. Excluded are fixed architectural modifications of the LRA's dwelling in which the child resides, and property related thereto. External ramps and/or mechanical lifts needed to provide the child access to the dwelling are not excluded.
- G) Speech and hearing therapy, physical and occupational therapy.
- H) Nutrition evaluation, guidance and provision of special dietary substances upon medical recommendation, excepting those dietary substances available through programs of public or private agencies established for such purposes.
- I) Specialized dental care, such as orthodontia, prosthodontia, or oral surgery as required to further the treatment plan of children with severe oro-craniofacial deformities (e.g., cleft lip-cleft palate). Routine preventive or restorative dentistry is not provided except for children for whom this

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- service is a specific recommendation to be integrated into an authorized orthodontic or prosthodontic plan, ~~or who, as a special requirement imposed by a physical impairment or as a result of the severity of an impairment, require specialized dental restorative intervention.~~
- J) Arrangements for home follow-up services by public health and/or related rehabilitative services personnel.
- K) Specialized prescriptive drugs integral to the treatment program of a chronic disability, subject to the limitations of Section 1200.70(f).
- L) Genetic evaluation and family counseling.
- M) Psychological/psychiatric evaluation as medically recommended for diagnosis and treatment planning.
- N) Referral to other public or private agencies as required to further support the special needs of the family and/or child.

J) In order to make recommended services accessible to families, DSCC will support necessary transportation, lodging, meals, and parking costs ~~for the family and child if the Annual Gross annual Total Income is at or below 133% of Poverty Income Guidelines (55 57 Fed. Reg. 5664 5455).~~ DSCC shall be obligated to provide said support only if no other sources are available for this purpose.

A) DSCC shall support necessary transportation ~~expenses in accordance with, and by the most economically appropriate method, and at a cost not exceeding limitations as set forth in the Reimbursement Schedule of the Travel Regulation Council at 80 Ill. Adm. Code 3000.Apendix A.~~ DSCC will prescribe the form and procedure which families must follow in order to receive and verify expenses.

B) Support will be available for the following individuals: LRAs; the Recipient Child; any additional caretaker whose presence is medically required to provide care for the Recipient Child during transportation. ~~Transportation assistance will be limited to a maximum of one round-trip for each authorized person requiring an overnight stay.~~

C) When circumstances so dictate to meet the health care needs of the child, the Director shall authorize payments in excess of the amount stated above.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

Section 1200.100 Standards for Health Care Professionals

- a) Personnel Receiving DSCC Authorizations
1) Physicians: General Qualifications
In view of the specialized care required by children with chronic and often uncommon physical impairments served by DSCC, a

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participating physician Health Care Professional shall be certified by one of the boards constituting the American Board of Medical Specialties; be licensed by the State of Illinois or the State in which the medical services are being provided; and be a member in good standing of the professional staff of the Health Care Facility approved by DSCC for the services to be provided. Physicians shall be those who have been approved by DSCC as meeting the above standards as evidenced by a submission thereof on forms provided by DSCC for that purpose. The Director will authorize the use of non-certified physicians when such is required to meet the needs of a specific child (for purposes of this clause a non-certified physician is defined as a physician who is qualified by training in his specialty as determined by the American Board of Medical Specialties but who has not yet met the minimum experience qualifications required to complete the credentialing process through oral and written examinations). In such cases, the Director will establish limits on the services to be performed by such Professionals which reflect the extent of the training and experience of the physician.

2) Physicians: Special Qualifications

If medically necessary to meet the unique needs of individual children, the Director shall require physicians involved in providing care to said children to demonstrate that they have completed advanced training germane to the condition being treated. Such training may include sub-specialty certification by the American Boards of Medical Specialties or completion of a period of fellowship training in an approved program. The Director may also require, in such circumstance, that the physician evidence completion of continuing medical education in the specialized area needed and demonstrate significant recent experience in treating low incidence health impairments. Among the services provided by DSCC which require such qualifications are those involving medical and surgical management of children with cardiac defects; surgical management of curvature of the spine; habilitation of the upper extremity amputee; diagnosis and management of inborn errors of metabolism; hemophilia; cystic fibrosis; cleft lip/cleft palate; spina bifida; and genetic evaluation and counseling.

3) Other Health Care Professionals

Other Health Care Professionals include, but are not limited to, nurses, social workers, specialized dentists, physical therapists, occupational therapists, speech clinicians, audiologists, optometrists, podiatrists, psychologists, nutritionists, genetic counselors, orthotists, prosthetists, and related consultants shall need licensure, certification and credentialing requirements of the State and professional associations in the specialty areas in which they practice or provide services. Additionally, they shall present evidence of their training and experience in providing services to physically

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impaired children. Evidence of such training and experience shall be relevant to the prescriptive intervention ordered. The Director shall require additional qualifications when further expertise is required in accordance with the standards enumerated in Subsection (2) immediately above. All such services shall be provided when medically necessary as determined by the DSCC Director considering the recommendations of the principal Health Care Professional.

4) Insurance

~~All physicians and all other Health Care Professionals must carry medical malpractice insurance in such amounts as are determined as actuarially sound from time to time and must provide DSCC with assurance of such coverage.~~

All physicians and all other Health Care Professionals shall maintain professional liability insurance in such amounts as may be determined by DSCC from time to time and must provide DSCC with assurance of such coverage.

5) Health Care Professionals providing DSCC services prior to the effective date of this Part.

The above qualifications notwithstanding, physicians and other Health Care Providers who provided DSCC services prior to the effective date of this Part shall be entitled to continue in such status provided the skill, knowledge, training, and experience demonstrated the skill, knowledge, training, and experience necessary to continue to provide services to Recipient Children. They shall be deemed to have demonstrated such skill, knowledge, training and experience if past medical outcomes were satisfactory, past medical diagnoses proved correct, and all past medical interventions were in accordance with usual and customary medical standards. (See exclusion in subsection (b)(6) immediately below.)

6) Exclusion from Participation

A) Health Care Professionals formally involuntarily excluded from participation in programs of federal and state agencies, shall automatically be excluded from participation in the DSCC program.

B) Health Care Professionals shall also be excluded for cause. Cause for exclusion by DSCC shall include, but shall not be limited to, failure to successfully complete the accreditation process by the appropriate certifying Board or organization within the maximum time frame for such certification; documented evidence of any kind of professional performance not consonant with the recognized standard of care; adverse action of a hospital medical board, a professional society or other organization; and lack of cooperation regarding billing practice or submission of reports.

C) Any exclusion for cause shall be communicated to the Health Care Professional in writing. The Professional shall be

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entitled to appeal any such decision in accordance with the procedures set forth in subsection (b), immediately below.

b) Upon receiving notice of DSCC intention to terminate participation in DSCC programs for cause, a Health Care Professional shall be entitled to a hearing thereon before the DSCC Director, if such is requested in writing within thirty days after said notice is received by the Professional.

- 1) The hearing shall be informal in nature and the Professional shall have the right to present all relevant information, witnesses, and evidence in any form.
- 2) The sole question which shall be determined is whether the Professional is qualified to provide services to DSCC Recipients under the standards established by Section 1200.100 of this Part.
- 3) Within thirty (30) days after the hearing, the Director shall issue a decision determining whether the Professional is so qualified and stating the reasons for the decision. The decision shall be based upon the facts presented at the hearing and any supplemental investigation performed by the Director.
- 4) The decision of the Director shall be final.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

Section 1200.110 Standards for Health Care Facilities

a) Diagnostic and Treatment Facilities - General

- 1) All such facilities utilized by DSCC must carry adequate malpractice insurance in such amounts as are determined by the Director from time to time and must give DSCC assurance of this coverage.

- 2) All hospital and extended care facilities utilized by DSCC for the provision of patient care services shall conform to the following standards:

- A) Licensure by the appropriate state licensing body;
- B) ~~Approval--of Accreditation by the Joint Commission on Accreditation of Hospitals Healthcare Organizations, or, the American Osteopathic Association;~~
- C) Recipient Children shall be provided care in hospital facilities with a physically definable pediatric unit to which only children are admitted. ~~the entire pediatric unit shall have an annual average daily census--of--fifteen--(15) children--or--more--excluding normal newborns.~~ In making the selection and designation of such approved patient care facilities, DSCC shall give priority to those facilities which demonstrate emphasis on quality children's medical services pursuant to standards enumerated in subsection (D) immediately below. In a particular service area in which only a single hospital is utilized to admit all Recipient Children, ~~but in which the population base of the area--does~~

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~~not--allow achievement-of-the-average-daily-census--indicated above,~~ these standards shall be waived when determined by the DSCC Director to be medically indicated to meet the needs of the Recipient Child;

- D) All patient care facilities, programs and specialized patient care centers shall meet national standards whenever possible, including those promulgated by the American Medical Association, the American Hospital Association, the American College of Surgeons, the American Academy of Pediatrics, the Joint Commission on the Accreditation of Hospitals, the Commission for the Accreditation of Rehabilitation Facilities, the Inter-Society Committee on Congenital Heart Disease and the American Heart Association.
- 3) Priority shall be given to those facilities affiliated with a medical school. DSCC shall refer children to designated regional or statewide referral centers when medically indicated utilizing usual and customary medical standards.
- 4) The above standards shall be waived by the DSCC Director when necessary to meet the medical needs of the child utilizing usual and customary medical standards.

- b) Outpatient Therapy Centers, defined as facilities, not directly associated with approved hospital facilities, which are organized to provide habilitative services such as physical, occupational, speech and hearing therapy (including applicable diagnoses), at the community level, will be available to patients under DSCC authorization provided that:
 - 1) Such facilities carry adequate malpractice insurance in such amounts as are determined by the Director from time to time and DSCC is given assurances of this coverage;
 - 2) Such facilities and staff meet appropriate state certification whenever such standards exist;
 - 3) Such facilities and staff meet accreditation standards of the Commission for Accreditation of Rehabilitation Facilities; where they exist;
 - 4) Utilization of Outpatient Therapy Centers or individual therapist Health Care Professionals must be prescribed by the Recipient Child's DSCC-authorized physician responsible for the overall management of the physical impairment requiring the habilitative service.

c) Medical Equipment Suppliers

- 1) All medical equipment suppliers must carry adequate insurance in such amounts as are determined by the Director from time to time and must give DSCC assurance of this coverage.
- 2) A facility providing braces, appliances and/or prostheses must be currently approved under the Facility Certification Program administered by the American Board of Certification in Orthotics and Prosthetics, Incorporated, and have in their employ an orthotist and/or prosthetist who has successfully completed a training program recognized by the American Board of Orthotists

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and Prosthetists, Incorporated, and who is certified by said Board. Providers of specialized medical equipment shall be authorized or approved dealers for such equipment as defined by the manufacturer and shall meet the manufacturer's standards for servicing and repairing such equipment.

- 3) The above services must be requested by the Recipient Child's DSCC-authorized physician.
- 4) A provider of hearing aids must be certified by the Department of Public Health as a hearing aid dispenser as provided in the "Hearing Aid Consumer Protection Act" (Ill. Rev. Stat. 1905 1991, ch. 111 par. 7401, et seq., effective July 17, 1984).

d) Clinical Laboratories

- 1) All clinical laboratories must carry adequate insurance in such amounts as are determined by the Director, from time to time and must give DSCC assurance of this coverage.

- 2) All such laboratories utilized by DSCC must meet the standards and be appropriately licensed by the state in which they operate. Laboratories in Illinois must have a current license maintained in accordance with the Clinical Laboratory Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 621-101 et seq.) and Illinois Clinical Laboratories Code, or, be fully certified to perform tests of moderate or high complexity under the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

- d) Hospitals and other treatment facilities are responsible for informing DSCC of changes in professional staff providing services to any Recipient Child.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

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Section 1200. APPENDIX A Income Scale

Size of Household	Income Scale	Income* (FY 9092)
1		\$13,500 \$14,900
2		-17,600 19,500
3		-21,800 24,100
4		-25,900 28,700
5		-30,100 33,300
6		-34,200 37,900
7		-35,800 38,800
8		-35,800 39,700
9		-36,600 40,500
10		-37,300 41,400
11		-38,100 42,200
12		-38,900 43,100

*This table is based upon 65% of the gross median family income adjusted for family size as developed for the State of Illinois by the U.S. Department of Health and Human Services, using the Federal Register's updated table for gross median family income (54 57 Fed. Reg. 11070 6614). In order to find 65% of state median income for households with greater than 12 members, perform the following calculation:

- 1) Begin with 150%;
- 2) Add 3 percentage points for each additional family member;
- 3) Multiply figure obtained at step (2) by 25,900 28,700 (i.e., the 4 person household amount);
- 4) Round the figure obtained at step (3) to the nearest \$50 (\$100).

*Allowable Adjusted Family Income which results in full financial assistance.

(Source: Amended at 17 Ill. Reg. 1137, effective March 8, 1993)

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: General Programmatic Requirements
- 2) Code Citation: 89 Ill. Adm. Code 220
- 3) Section Numbers: 220.625 Emergency Action: Amendment
220.635 Amendment
- 4) Statutory Authority: Ill. Compiled Stat., 1992, ch. 20,
Sections 105/4.01(4), (9), (11) and
(12); 105/4.02, 105/4.03 and
105/5.02
- 5) Effective Date of Amendment(s): January 11, 1993
- 6) If this emergency amendment is to expire before the end of the
150-day period, please specify the date on which it is to
expire: Not Applicable.
- 7) Date Filed in Agency's Principal Office: January 11, 1993
- 8) Reason for Emergency:

The ability for an agency to provide case management service under Title III of the Older Americans Act and under the Community Care Program (CCP) is predicated on the agency being designated as a Case Coordination Unit (CCU). This designation is accomplished by entering into a contract or grant with the Area Agency on Aging (AAA) for Title III case management services and with the Department to provide Community Care Program case management services (Section 240.600(a)) through a procurement process.

The current rules require that the entire RFP package, including the complete set of CCU and CCP rules be sent by the AAA to every agency that is on an "interested bidder list." This requires the copying, mailing and processing of more than 450 pages to each listed agency which has only "expressed" an interest in receiving funding from the Department or AAA. The Department has found from information obtained during the FY93 CCU procurement process that the actual number of agencies who "bid" for CCU designation are far fewer than those agencies listed on the interested bidder list; and, that copying, mailing and processing costs for an entire RFP package to all agencies on the interested bidder list was substantially costly. For example, in Suburban Cook County and the City of Chicago, there are hundreds of agencies listed on the interested bidder list. In Suburban Cook County alone the

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cost of copying, mailing and processing this package to everyone on their list would be approximately \$4,653.00; and, in the City of Chicago, where there are 360 agencies on the interested bidder list, costs would at least be double the costs incurred in Suburban Cook County. Such cost savings could be redistributed to where the dollars are needed most - service provision.

The procurement process for Fiscal Year 94 for Case Coordination Unit (CCU) providers to provide Title III and Community Care Program case management services will begin in January, 1993. Therefore the need for emergency rulemaking is necessary to ensure that reduced copying costs, postage costs and processing costs are reallocated to client service provision as soon as possible.

These emergency changes will allow the AAAs to notify each of the agencies on the bid list of the availability of funds and that agencies interested in applying can request the complete CCU RFP package. This will enable the AAAs to mail the complete CCU RFP package to only those entities that request it, thereby reducing copying, postage and processing costs in an effort to provide a means for reallocation of such cost savings to service provision.

The Department's responsibility to find ways to allocate more dollars into service provision with its limited resources is an ongoing priority to continue to help protect the health, safety and welfare of the elderly of this State. Therefore, the ability of the Department to reduce copying, postage and processing costs of procurement documents and subsequently reallocate such cost savings to service provision, is in the utmost interest of the public in general, and the State's senior citizens in particular.

9) A Complete Description of the Subjects and Issues Involved:

Effective January 11, 1993, the AAAs will be able to notify each of the agencies on the FY94 bid list of the availability of funds and mail the complete CCU RFP package to only those entities who request it. All AAAs are affected by this emergency rulemaking.

This emergency rulemaking allows the Department and the AAAs to reduce administrative costs and allows the AAAs to reallocate such costs savings to service provision, thereby ensuring that the limited resources of the Older Americans Act

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NOTICE OF EMERGENCY AMENDMENTS

Programs and the Community Care Program are distributed equitably and most specifically to those elderly in the greatest economic and social need pursuant to Departmental rule requirements and statutory mandates.

- 10) Are there any proposed amendments pending on this Part? No.
- 11) Statement of Statewide Policy Objectives: Not applicable.
- 12) Information and questions regarding this amendment shall be directed to:

Name: Mary J. Mayes
Address: Policy and Rules Analyst
 Illinois Department on Aging
 421 East Capitol Avenue
 Springfield, IL 62701
Telephone: (217) 782-4842

The full text of the Emergency Amendment(s) begins on the next page:

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER II: DEPARTMENT OF AGING

PART 220
 GENERAL PROGRAMMATIC REQUIREMENTS

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Confidentiality and Disclosure of Information
 Client Cooperation
 Referral Requirements
 Other Resources Supporting the Cost of In-Home Care Services
 Appeals and Fair Hearings
 Initiation of Appeal Process
 Request for Hearing or Appeal
 Place of Filing
 Responsibility of Department or Area Agency on Aging
 Informal Review
 Hearing Officer
 Notice of Hearing
 Representation of Appellant
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 Dismissal of Appeals
 Transcript
 Decision
 Notice of Decision to Appellant
 Public Review
 Case Coordination Unit Minimum Standards
 Case Management Staff Requirements and Qualifications
 Case Coordination Unit Procurement
 Procurement Cycle
 Definition of Case Coordination Unit Request For Proposal
 Issuance of Case Coordination Unit Proposal and Guidelines
 Content of Case Coordination Unit Request For Proposal
 Review of Case Coordination Unit Proposals
 Evaluation of Case Coordination Unit Proposals
 Designation of Case Coordination Units
 Objection to Case Coordination Unit Award

NOTICE OF EMERGENCY AMENDMENTS

Determination

220.655 Procurement of a Replacement Case Coordination Unit
 220.660 Compliance Reviews of Case Coordination Units
 220.665 Case Coordination Unit Compliance
 220.670 Sanctions for Case Coordination Unit Failure to Comply with Case Management Contract/Grant

APPENDIX A Names and Addresses of Area Agencies on Aging by Planning and Service Area

AUTHORITY: Implementing and authorized by Section 4.01 of the Illinois Act on the Aging (Ill. Compiled Stat. 1992, ch. 20, par. 105/4.01).

SOURCE: Adopted at 5 Ill. Reg. 3722, effective March 31, 1981; codified at 8 Ill. Reg. 19310; amended at 15 Ill. Reg. 18603, effective December 13, 1991; emergency amendment at 17 Ill. Reg. ~~1179~~, effective January 11, 1993, for a maximum of 150 days.

Section 220.625 Issuance of Case Coordination Unit Proposal and EMERGENCY Guidelines

a) All Case Coordination Unit (CCU) procurement actions shall be advertised in the official State newspaper.

1) Advertisements shall appear at least ~~three~~ times with the first and last advertisement at least ~~ten~~ ~~10~~ calendar days apart.

2) Advertisements shall detail the Department's and AAA's needs or may generally indicate needs while inviting agencies to request the CCU Proposal and Guidelines (refer to Section 220.6230).

b) The Department and the AAA shall establish and maintain a list of applicants/agencies who are interested in providing case management services and have demonstrated that interest in writing to the Department or to the AAA.

1) The Department shall provide the AAA with the Department's list of applicants/agencies, and the AAA shall provide the Department with the AAA's list of applicants/agencies, at least ~~two~~ weeks prior to issuance of the CCU Proposal and Guidelines.

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2) ~~A CCU Proposal and Guidelines shall be sent to all applicants/agencies on these mailing lists will be notified in writing of the advertised procurement action by the AAA.~~

3) ~~The AAA shall send the complete CCU Proposal and Guidelines to all applicants/agencies which request these documents.~~

4) ~~The applicant/agency lists shall be maintained until the Request for Proposal (RFP) process has been completed.~~

5) ~~Following the RFP and subsequent award process, applicants must again request placement on the list in writing for the next solicitation.~~

c) The AAA shall ensure that a CCU Proposal and Guidelines are issued to current contractors in good standing whose service areas are open for solicitation.

Source: Emergency amendment at 17 Ill. Reg. ~~1179~~, effective January 11, 1993, for a maximum of 150 days)

Section 220.635 Review of Case Coordination Unit Proposals EMERGENCY

a) Upon receipt of the proposals, the Area Agency on Aging (AAA) shall log in the proposals.

b) Three copies of each proposal shall be held as originally submitted ~~placed in a sealed envelope for forwarding transmission~~ to the Department.

c) The AAA will review and score all proposals, in accordance with Section 220.640, on a standard score sheet.

d) The AAA will forward ~~transmit~~ the originally submitted proposals, the scoring sheets, and the AAA's written recommendation for designation ~~refer to~~ Section 220.645) to the Department.

e) The Department will review the AAA's process and recommendation for designation.

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- f) The Department will develop its recommendation for designation.

(Source: Emergency amendment at 17 Ill. Reg. 1179, effective January 11, 1993, for a maximum of 150 days)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances

2) Code citation: 41 Ill. Adm. Code 170

3) Section Numbers: Emergency Action:

170.530

Amendment

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 127 1/2, par. 154 (430 ILCS 15/2)

5) Effective Date of Amendments: January 12, 1993

6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A

7) Date Filed in Agency's Principal Office: January 12, 1993

8) Reason for Emergency: Alternative methods of leak detection conceivably could be used to comply with specified UST leak detection requirements even though those alternative methods allow the release of more product from the UST before it is classified as a reportable release.

9) A Complete Description of the Subjects and Issues Involved: USTs are required to comply with upgrading requirements. One of these requirements is leak detection. The regulations cite certain methods of compliance with leak detection requirements. In addition, alternative methods may be relied on; however, these alternative methods have too high of a threshold which would permit too great of a release of product before responsive action is legally required. Thus, they pose too great of a threat to public health and safety.

10) Are there any other proposed amendments pending to this Part? No

Section Numbers Proposed Action Illinois Register Citation

11) Statement of Statewide Policy Objectives: N/A

12) Information and questions regarding these emergency rules shall be directed to:

Name: James I. McCaslin, Director
Address: Office of the State Fire Marshal
Division of Petroleum and Chemical Safety
1035 Stevenson Drive, Springfield, Illinois 62703-4259
Telephone: 217/785-1020

The full text of the emergency rules begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF EMERGENCY AMENDMENTS

TITLE 41 FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALSTORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM AND OTHER
REGULATED SUBSTANCES

PART 170

SUBPART A: MISCELLANEOUS

Section	
170.10	Definitions
170.11	Incorporation of National Standards
170.15	Bulk Sales Prohibited
170.20	Storage Underground and Limited
170.30	Settling of Tanks (Repealed)
170.40	Clearance Required for Underground Tanks
170.41	Location
170.50	Material and Construction of Tanks
170.60	Venting of Tanks
170.65	Underground Tank Installations
170.70	Fill Pipes
170.71	Registration of Underground Storage Tanks and Payment of Annual Fee
170.72	Late Registration Fee
170.73	Access to the Underground Storage Tank Fund (Emergency Expired)
170.75	Abandonment of Underground Storage Tanks (Renumbered)
170.76	Leaking Underground Tanks
170.80	Unloading Operations
170.90	Pumps
170.91	Labeling of Containers and Pumps
170.100	Piping
170.105	Approval of Plans
170.106	Installer, Repairer or Remover of Underground Storage Tanks
170.107	Tester of Underground Storage Tanks and Cathodic Protection
170.108	Pressure Testing
170.110	Building
170.115	Safe Heat Required
170.120	No Flammable or Combustible Liquids Within Building - Exception
170.130	Greasing Pits
170.140	Wash and Greasing Rooms
170.145	Fire Extinguishers
170.150	Self-Service - No Self-Service Without Permit; Procedures and Regulations
170.160	Care and Attendance
170.170	Fire Extinguishers (Repealed)
170.180	Sale of Fireworks
170.190	Approval of Plans (Repealed)
170.200	Defective Equipment
170.210	Deliveries from Portable Tanks Restricted
170.310	Unattended Self-Service Other Than Fleet Operations

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF EMERGENCY AMENDMENTS

SUBPART B: UNDERGROUND STORAGE TANKS -- TECHNICAL REQUIREMENTS

170.400	Definitions
170.410	Incorporations by Reference
170.420	Design, Construction, Installation and Notification of New UST Systems
170.430	Upgrading of Existing UST Systems
170.440	Notification Requirements
170.450	Spill and Overfill Control
170.460	Operation and Maintenance of Corrosion Protection
170.470	Compatibility
170.480	Repairs Allowed
170.490	Reporting and Recordkeeping
170.500	General Release Detection Requirements for All UST Systems
170.510	Release Detection Requirements for Petroleum UST Systems
170.520	Release Detection Requirements for Hazardous Substance UST Systems
170.530	Methods of Release Detection for Tanks
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170.540	Methods of Release Detection for Piping
170.550	Release Detection Recordkeeping
170.560	Reporting of Suspected Releases
170.570	Investigation Due to Off-Site Impacts
170.580	Release Investigation and Confirmation Steps
170.590	Reporting and Cleanup of Spills and Overfills
170.600	Initial Response for UST Systems Containing Petroleum or Hazardous Substances
170.610	Initial Abatement Measures and Site Check
170.620	Temporary Closure of Out-of-Service UST Systems
170.630	Change-in-Service of UST Systems
170.640	Assessing the Site at Removal or Change-in-Service of UST Systems
170.650	Applicability to Previously Removed UST Systems
170.660	Removal or Change-in-Service Records
170.670	Abandonment of Underground Storage Tanks

SUBPART C: UNDERGROUND STORAGE TANKS -- FINANCIAL RESPONSIBILITY REQUIREMENTS

170.700 Incorporation by Reference

SUBPART D: UNDERGROUND AND ABOVEGROUND STORAGE TANKS -- ADMINISTRATIVE
PROCEDURE RULES FOR ORDERS ISSUED BY THE DIVISION OF PETROLEUM AND
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170.800	Definitions
170.810	Grounds for Appeal
170.820	Notice of Hearing
170.830	Appearances
170.840	Official Notice
170.850	Authority of Hearing Officer

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170.860 Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST)

170.870 Briefs

170.880 Transcripts

170.890 Order of the State Fire Marshal

170.900 Authority to Suspend, Deny or Revoke Registration

170.910 Suspension or Revocation of the Registration of a Contractor

TABLE A SCHEDULE FOR PHASE-IN OF RELEASE DETECTION

TABLE B MANUAL TANK GAUGING: WEEKLY AND MONTHLY STANDARDS

AUTHORITY: Implementing the Gasoline Storage Act (Ill. Rev. Stat.--1989--and 1990--Supp., 1991, ch. 127 1/2, par. 152.9 et seq.) (430 ILCS 20/2) and authorized by Section 2 of the Gasoline Storage Act (Ill. Rev. Stat. 1989 1991, ch. 127 1/2, par. 154) (430 ILCS 15/2).

SOURCE: Rules and Regulations Relating to Service Stations filed July 10, 1958; amended March 6, 1963 and April 4, 1977; codified at 5 Ill. Reg. 10692; emergency amendment at 7 Ill. Reg. 1477, effective January 26, 1983, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 10058, effective June 29, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 9514, effective October 1, 1985; emergency amendment at 10 Ill. Reg. 345, effective January 1, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 12324, effective July 2, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 19976, effective January 5, 1987; amended at 12 Ill. Reg. 8023, effective April 26, 1988; emergency amendments at 13 Ill. Reg. 1886, effective January 27, 1989, for a maximum of 150 days; emergency expired June 26, 1989; amended at 13 Ill. Reg. 5669, effective April 21, 1989; amended at 13 Ill. Reg. 7744, effective May 9, 1989; amended at 13 Ill. Reg. 8515, effective May 23, 1989; amended at 13 Ill. Reg. 8875, effective May 24, 1989; amended at 13 Ill. Reg. 14992, effective September 11, 1989; amended at 14 Ill. Reg. 5781, effective April 10, 1990; amended at 15 Ill. Reg. 7042, effective April 29, 1991; amended at 16 Ill. Reg. 4845, effective March 12, 1992; emergency amendment at 17 Ill. Reg. 1186, effective January 12, 1993, for a maximum of 150 days.

SUBPART B: UNDERGROUND STORAGE TANKS -- TECHNICAL REQUIREMENTS

Section 170.530 Methods of Release Detection for Tanks
EMERGENCY

Each method of release detection for tanks used to meet the requirements of Section 170.510 must be conducted in accordance with the following:

- a) Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

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- 1) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
- 2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- 3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- 4) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;
- 5) Product dispensing is metered and recorded, pursuant to Section 8 of the Weights and Measures Act (Ill. Rev. Stat. 1987 1991, ch. 147, par. 108) (225 ILCS 470/8); and
- 6) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month. (Practices described in the API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection.)

b) Manual tank gauging. Manual tank gauging must meet the following requirements:

- 1) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
- 2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
- 3) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- 4) A leak is suspected and subject to the requirements of 40 CFR 280, Subpart E, incorporated by reference in Section 170.410, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B of this Part;
- 5) Only tanks of 550 gallons or less nominal capacity may use this as the sole method of release detection. Tanks of 551 to 2,000 gallons may use the method in place of manual inventory control

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in subsection (a) above. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this subsection (a).

- c) Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation and the location of the water table.
- d) Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:
- 1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and
 - 2) Inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of subsection (a) above.
- e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:
- 1) The materials used as a backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;
 - 2) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
 - 3) The measurement of vapors by the monitoring device is not rendered inoperative by the ground-water, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;
 - 4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
 - 5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the

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regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

- 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (4) above and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and
 - 7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- f) Ground-water monitoring. Testing or monitoring for liquids on the ground-water must meet the following requirements:
- 1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;
 - 2) Ground-water is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);
 - 3) The slotted or perforated portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground-water conditions;
 - 4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;
 - 5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
 - 6) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the ground-water in the monitoring wells;
 - 7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (5) of this Section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

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8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

1) For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; the provisions specified in STI, "Standard for Dual Wall Underground Storage Tank", incorporated by reference in Section 170.410, may be used as guidance for aspects of the design and construction of underground steel double-walled tanks;

2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier;

A) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (not in excess of 0.000001 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;

B) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

C) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

D) The ground-water, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

E) The site is assessed to ensure that the secondary barrier is always above the ground-water and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and

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F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

h) Other methods. Any other type of release detection method, or combination of methods, can be used if:

1) It can detect a 0.2-gallon-per-hour leak rate of a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

2) Approved by the Office of the State Fire Marshal may approve another method if the owner and operator or manufacturer can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (h) (g) of this Section; the demonstration of any such method shall be by writing submitted to the Office. In comparing methods, the Office shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the Office on its use to ensure the protection of human health and the environment. Before the utilization of the method, the Office shall issue written approval.

(Source: Emergency amendment at 17 Ill. Reg. 1186 effective January 12, 1993, for a maximum of 150 days)

DEPARTMENT OF MINES AND MINERALS

NOTICE OF EMERGENCY AMENDMENT(S)

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Section Number:
Emergency Action:
240.1200 Amends Section
- 4) Statutory Authority: Implemented and authorized by Section 9 of the Illinois Oil and Gas Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 5415) (225 ILCS 725/9)
- 5) Effective Date Of Amendments: January 12, 1993
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed in Agency's Principal Office: January 12, 1993

8) Reason for Emergency: The immediate rules change is necessary to reconcile the rule with the Department's land reclamation rules providing for permitting coal mining monitoring wells per Section of land rather than per well. Though the Department is initiating standard rulemaking that would adopt this change, to await the completion of that rulemaking before making this rules change effective would impose needless cost and delay on applicants for such permits.

9) A complete description of the subjects and issues involved: The rules change provides that permits for coal monitoring wells be applied for, and issued, per Section of land, rather than per well.

Section	Proposed Action	Illinois Register Citation
240.131	New Section	16 Ill. Reg. 13722
240.132	New Section	16 Ill. Reg. 13722
240.133	New Section	16 Ill. Reg. 13722
240.160	Amended	16 Ill. Reg. 13722
240.170	Amended	16 Ill. Reg. 13722
240.180	Amended	16 Ill. Reg. 13722
240.190	Amended	16 Ill. Reg. 13722
240.195	Amended	16 Ill. Reg. 13722

11) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

12) Information and questions regarding this amendment shall be directed to:

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NOTICE OF EMERGENCY AMENDMENT(S)

John Henriksen
General Counsel
Illinois Department of Mines and Minerals
300 West Jefferson, Suite 300
Springfield, IL 62791

The full text of the Emergency Amendments begin on the next page:

DEPARTMENT OF MINES AND MINERALS
NOTICE OF EMERGENCY AMENDMENT(S)

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 240
THE ILLINOIS OIL AND GAS ACT

SUBPART A: GENERAL PROVISIONS

Section	Definitions
240.10	Prevention of Waste (Repealed)
240.20	Jurisdiction (Repealed)
240.30	Enforcement of Act (Repealed)
240.40	Delegation of Authority (Repealed)
240.50	Right of Inspection (Repealed)
240.60	Right of Access (Repealed)
240.70	Sworn Statements (Repealed)
240.80	Additional Reports (Repealed)
240.90	When Rules Become Effective (Repealed)
240.100	Notice of Rules (Repealed)
240.110	Forms (Repealed)
240.120	Hearings--Notices
240.130	Unitization Hearings
240.131	Integration Hearings
240.132	Drilling Unit Hearings
240.133	Violations Not Requiring Formal Action
240.140	Notice of Violation
240.150	Director's Decision
240.160	Cessation Order
240.170	Enforcement Hearings
240.180	Temporary Relief
240.190	Subpoenas
240.195	

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section	Applicability
240.200	Application for Permit to Drill, Deepen or Convert to a Production Well
240.210	Contents of Application
240.220	Authority of Person Signing Application
240.230	Additional Requirements for Directional Drilling
240.240	Issuance of Permit
240.250	Underground Injection and Disposal Projects (Recodified)
240.255	Change of Well Location
240.260	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.270	Duration of Underground Injection Well Orders (Repealed)
240.280	

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SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section	Applicability
240.300	Transfer of Management (Recodified)
240.305	Application for Permit to Drill, Deepen or Convert to a Class II UIC Well
240.310	Contents of Application
240.320	Authority of Person Signing Application
240.330	Proposed Well Construction and Operating Parameters
240.340	Groundwater and Potable Water Supply Information
240.350	Area of Review
240.360	Public Notice
240.370	Issuance of Permit
240.380	Permit Amendments
240.390	Update of Class II UIC Well Permits Issued Prior to July 1, 1987
240.395	

SUBPART D: SPACING OF WELLS

Section	Drilling Units
240.410	Well Location Exceptions within Drilling Unit
240.420	Drilling Unit Exceptions
240.430	More Than One Well on a Drilling Unit
240.440	Directional Drilling
240.450	Special Drilling Units Based Upon Reservoir Characteristics
240.460	

SUBPART E: DRILLING AND CASING PROCEDURES

Section	Rotary Drilling Procedure (Repealed)
240.510	Cable Tool Drilling Rules (Repealed)
240.520	Slush and Mud Pits
240.530	

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR PRODUCTION WELLS
OPERATING REQUIREMENTS

Section	Applicability
240.600	Construction Requirements for Production Wells
240.610	Remedial Cementing of Leaking Wells
240.620	Operating Requirements
240.630	Reporting Requirements
240.640	Confidentiality of Well Data
240.650	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.655	

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240.660 Monitoring and Reporting Requirements for Enhanced Recovery
Injection and Disposal Wells (Repealed)
240.670 Avoidable Waste of Gas (Repealed)
240.680 Escape of Unburned Gas Prohibited (Repealed)

SUBPART G: WELL CONSTRUCTION, OPERATING
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section
240.700 Applicability
240.710 Surface and Production Casing Requirements for Newly Drilled Class
II UIC Wells Drilled After the Effective Date of this Section
240.720 Surface and Production Casing Requirements for Conversion to Class
II UIC Wells
240.730 Surface and Production Casing Requirements for Existing Class II
UIC Wells
240.740 Other Construction Requirements for Class II UIC Wells
240.750 Operating Requirements for Class II UIC Wells
240.760 Internal Mechanical Integrity Testing for Class II UIC Wells
240.770 External Mechanical Integrity Testing for Class II UIC Wells
240.780 Reporting Requirements for Class II UIC Wells
240.790 Confidentiality of Well Data

SUBPART H: GENERAL LEASE OPERATING REQUIREMENTS AND
AVOIDANCE OF SURFACE POLLUTION

Section
240.805 Introduction
240.810 Disposal in Underground Stratum
240.820 Disposal in Earthen Pits
240.830 Pipes to be Kept in Repair
240.840 Burn Off Pits
240.850 Lease Tank Reservoirs
240.860 Fire Hazards at Well Locations
240.870 Mining Board Supervision
240.880 Yearly Inspection--of Pits--Revocation of Permits--Orders for
Corrective Action and Other Disposal
240.890 Lease and Well Identification

SUBPART I: OIL FIELD BRINE HAULING

Section
240.905 Introduction (Recodified)
240.910 Authority, Policy and Purpose
240.920 Definitions
240.930 Oil Field Brine Haulers Permit
240.940 Applications for Brine Hauling Permit Shall Include the Following:
240.950 Applications for Oil Field Brine Hauling Permits--Signatures and

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240.960 Authorization
240.970 Oil Field Brine Hauling Permit Conditions
240.980 Inspection of Vehicles
240.985 Transfer of Permits
240.990 Revocation of Oil Field Brine Hauling Permit
240.995 Records and Reporting Requirements
Bonds--Blanket Surety Bond (Repealed)

SUBPART J: VACUUM

Section
240.1005 Requirements for Use of Vacuum Pumps
240.1010 Application for Use of Vacuum
240.1020 Notice and Hearing on Application
240.1030 Mining Board Authority

SUBPART K: PLUGGING OF WELLS

Section
240.1105 Plugging of Non-Productive Wells (Repealed)
240.1110 Definitions
240.1120 Plugging of Uncased Wells
240.1130 Plugging or Temporary Abandonment of Abandoned or Inactive Wells
240.1140 General Plugging Procedures and Requirements
240.1150 Specific Plugging Procedures
240.1151 Procedures for Plugging Coal Seams
240.1160 Converting to Water Well (Repealed)
240.1170 Well Site Restoration
240.1180 Lease Restoration
240.1190 Filling Plugging Affidavit

SUBPART L: OTHER WELLS

Section
240.1200 Application for Permit for Geological or Structural Test Hole
EMERGENCY
240.1205 Transfer of Management (Recodified)
240.1210 When Bond Required--Amount (Recodified)
240.1220 Kind of Bond--Execution (Recodified)
240.1230 Bond of Manager (Recodified)
240.1240 Bond Form--Approval (Recodified)
240.1250 Surety May Cancel Bond (Recodified)
240.1260 Mining Board May Cancel Bond (Recodified)
240.1270 Casing Puller's Bond (Recodified)

SUBPART M: PROTECTION OF WORKABLE COAL BEDS

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NOTICE OF EMERGENCY AMENDMENT(S)

240.1300 Introduction
 240.1305 Permit Requirements in Mine Areas
 240.1310 Workable Coal Beds Defined
 240.1320 Mining Board may Determine Presence of Coal Seams
 240.1330 Well Locations Prohibited
 240.1340 Notice to Mining Board
 240.1350 Casing and Protective Work
 240.1360 Operational Requirements Over Active Mine
 240.1370 Inspection of Vehicles (Recodified)
 240.1380 Transfer of Permits (Recodified)
 240.1385 Revocation of Oil Field Brine Hauling Permit (Recodified)
 240.1390 Records and Reporting Requirements (Recodified)
 240.1395 Bonds--Blanket Surety Bond (Recodified)

SUBPART N: TRANSFER OF OWNERSHIP

Section
 240.1400 Definitions
 240.1405 Transfer of Management (Repealed)
 240.1410 Applicability
 240.1420 When Notification to be Made
 240.1430 Responsibilities of Current Permittee
 240.1440 Responsibilities of New Permittee
 240.1450 Authority of Persons Signing Notification
 240.1460 Other Conditions for and Effect of Transfer
 240.1470 Casing Puller's Bond (Repealed)

SUBPART O: BONDS

Section
 240.1500 When Required and Amount
 240.1510 Definitions
 240.1520 Bond Requirements
 240.1530 Forfeiture of Bonds

AUTHORITY: Implementing and authorized by Sections 6 and 8a of "The Illinois Oil and Gas Act" (Ill. Rev. Stat. 1989¹, ch. 96 1/2, pars. 5409 and 5413) (225 ILCS 725/6 and 725/8a).

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30,

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1991 for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993 for a maximum of 150 days.

(NOTE: Capitalization denotes statutory language.)

SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

240.1200 Application for Permit for Geological or Structural Test Hole
 EMERGENCY

a) As provided by the Act, the Department shall require any person desiring or proposing to drill geological or structural test holes in connection with any operation for the exploration or production of oil or gas, coal or other mineral test holes, water supply wells in connection with secondary or enhanced recovery operations, and monitoring, observation or storage wells in connection with any activity regulated by the Department to secure a permit therefor. In addition to complying with all provisions enumerated herein, the applicant shall give bond for all test holes and wells in such amounts as further required by the Act, and shall also indicate the type of drilling tools to be used and the lowest proposed depth and geological formations to be tested. The permit fees required for these types of test holes or wells are as follows:

- 1) geological or structural test holes in connection with any operation for the exploration or production of oil and gas or coal or other mineral test holes: \$100.00 per Section or part thereof as delineated by the United States Public Land Survey, not to exceed \$5,000 for any permittee in any calendar year.
- 2) water supply wells in connection with secondary and enhanced recovery operations: \$100.00.
- 3) monitoring, observation or storage wells in connection with any oil and gas production or storage activity any--activity regulated-by-the-Department : \$100.00.
- 4) monitoring wells in connection with any coal mining or other mineral extraction operation regulated by the Department and not covered by a bond filed with the Department's land reclamation division: \$100.00 per Section or part thereof as delineated by the United States Public Land Survey, not to exceed \$5,000 for any permittee in any calendar year.

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- b) Mine or quarry drill or blast holes or seismograph test holes are exempt from the provision of the Act.

(Source: Emergency Amendment at 17 Ill. Reg. 1195 effective January 12, 1993, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) The Heading of the Part:

AIDS Confidentiality and Testing Code

- 2) Code Citation:

77 Ill. Adm. Code 697

- 3) Section Numbers:

697.20

697.30

Emergency Action:

Amendment
Amendment

- 4) Statutory Authority:

The AIDS Registry Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par 7351 et seq.)

- 5) Effective Date of Amendments:

January 7, 1993

- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire? Not Applicable

- 7) Date Filed in Agency's Principal Office:

January 7, 1993

- 8) Reason for Emergency: This rulemaking is necessary due to the Centers for Disease Control and Prevention's (CDC) implementation of an expanded AIDS case definition. The Illinois Department of Public Health was officially notified of the planned implementation on December 14, 1992, and the new case definition became effective January 1, 1993.

- 9) A Complete Description of the Subjects and Issues Involved: This emergency rulemaking amends existing Department rules concerning the definition of a case of AIDS to reflect the newly effective revised CDC definition. The AIDS Registry Act specifies that AIDS cases in Illinois are to be defined as per the CDC. The revised HIV/AIDS classification system and expanded AIDS surveillance case definition were published in the December 18, 1992 supplement to the Morbidity and Mortality Weekly Report (MMWR). Under the new definition, adults and adolescents with documented HIV infection who have CD4+ T-lymphocyte counts less than 200 cubic millimeters or a CD4+ percent less than 14 will be reportable as AIDS cases. In addition to the 23 clinical conditions in the 1987 case definition, all persons with documented HIV infection and any of the following conditions will be AIDS-defining: pulmonary tuberculosis; recurrent pneumonia (within a twelve month period); or invasive cervical cancer. The expanded definition is expected to increase reported cases of AIDS in Illinois by as much as 75 percent in the first year.

- 10) Are there any proposed amendments pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH
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- 11) Statement of Statewide Policy Objectives:
This rulemaking may require minimal additional expenditures by units of local government.
- 12) Information and questions regarding these emergency amendments shall be directed to:
Gail M. DeVito, Division of Governmental Affairs, Illinois Department of Public Health,
535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 (217)782-6187.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF EMERGENCY AMENDMENTS
TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS
PART 697
AIDS CONFIDENTIALITY AND TESTING CODE
SUBPART A: GENERAL PROVISIONS

Section
697.10 Applicability
697.20 Definitions
EMERGENCY
697.30 Incorporated Materials
EMERGENCY
697.40 Administrative Hearings

SUBPART B: HIV TESTING

Section
697.100 Approved HIV Tests and Testing Procedures
697.110 HIV Pre-Test Information
697.120 Written Informed Consent
697.130 Anonymous Testing
697.140 Disclosure of the Identity of a Person Tested or Test Results
697.150 Marriage License Testing Requirements (Repealed)
697.160 HIV Testing for Insurance Purposes
697.170 Enforcement of the AIDS Confidentiality Act
697.180 HIV Testing for Blood and Human Tissue Donations

SUBPART C: AIDS REGISTRY SYSTEM

Section
697.200 AIDS Registry System
697.210 Reporting Requirements
697.220 Release of AIDS Registry Information

SUBPART D: HIV COUNSELING AND TESTING CENTERS

Section
697.300 HIV Counseling and Testing Centers

SUBPART E: MISCELLANEOUS PROVISIONS

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Section
697.400 Notification of School Principals
697.410 Guidelines for the Management of Chronic Infectious Diseases in School Children
697.420 Testing, Treatment or Counseling of Minors

697.Appendix A Sample HIV Testing Forms
Illustration A Sample Written Informed Consent Form
Illustration B Sample Marriage License Testing Certificate (Repealed)

697.Appendix B Statutory and Regulatory References to AIDS

AUTHORITY: Implementing and authorized by AIDS Confidentiality Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7301 et seq.); AIDS Registry Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7351 et seq.); "AN ACT in relation to the prevention of certain communicable diseases" (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 22.11 et seq.), and Sections 55, 55.11, 55.41 and 55.45 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, pars. 55, 55.11, 55.41 and 55.45).

SOURCE: Emergency rules adopted at 12 Ill. Reg. 1601, effective January 1, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 9952, effective May 27, 1988; amended at 13 Ill. Reg. 11544, effective July 1, 1989; amended at 15 Ill. Reg. 11646, effective August 15, 1991; emergency amendment at 17 Ill. Reg. 1204, effective January 7, 1993, for a maximum of 150 days.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART A: GENERAL PROVISIONS

Section 697.20 Definitions
EMERGENCY

The following are definitions of terms used in this Part:

"ACT" or "AIDS Confidentiality Act" means the AIDS Confidentiality Act (Ill. Rev. Stat. 1991~~89~~, ch. 111 1/2, par. 7301 et seq.).

"AIDS" MEANS ACQUIRED IMMUNODEFICIENCY SYNDROME, AS DEFINED BY THE CENTERS FOR DISEASE CONTROL OR THE NATIONAL INSTITUTES OF HEALTH. (Section 3(a) of the AIDS Registry Act). Similar definitions appear in the Act. Current definition can be found in "Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome", Centers for Disease Control. Mortality and Morbidity Weekly Report (MMWR) Supp. December 18, 1992; 41(RR17), 4987-36-48; Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.

"AIDS Registry Act" means the AIDS Registry Act (Ill. Rev. Stat. 1991~~89~~,

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ch. 111 1/2, par. 7351 et seq.).

"Blood Bank" means any facility or location at which blood or plasma are procured, furnished, donated, processed, stored or distributed.

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH. (Section 3(a) of the AIDS Confidentiality Act.)

"Designated Agency" means a health care organization under a service agreement with the Department to function in the capacity of a Local Health Authority for the purposes of this Part, in a jurisdiction not covered by a Local Health Authority.

"HEALTH CARE PROVIDER" MEANS ANY PHYSICIAN, NURSE, PARAMEDIC, PSYCHOLOGIST OR OTHER PERSON PROVIDING MEDICAL, NURSING, PSYCHOLOGICAL, OR OTHER HEALTH CARE SERVICES OF ANY KIND. (Section 3(f) of the AIDS Confidentiality Act.)

"HEALTH FACILITY" MEANS A HOSPITAL, NURSING HOME, BLOOD BANK, BLOOD CENTER, SPERM BANK, OR OTHER HEALTH CARE INSTITUTION, INCLUDING ANY "HEALTH FACILITY" AS THAT TERM IS DEFINED IN THE ILLINOIS HEALTH FACILITIES AUTHORITY ACT. (Section 3(e) of the AIDS Confidentiality Act.)

"HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS. (Section 3(c) of the AIDS Confidentiality Act.)

"HIV-Infected" or "HIV infection" means infected with HIV, as evidenced by a confirmed laboratory test for antibodies to HIV as specified in Section 697.100, viral culture or positive antigen test or a clinical diagnosis of AIDS.

"Laboratory" means any facility or location at which tests are performed to determine the presence of antibodies to HIV, other than blood banks.

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results for an individual who is:

Under the age of twelve (12),

Deceased,

Declared incompetent by a court of law, or

Otherwise not competent to consent (for reasons other than age such as the apparent inability to understand or communicate with the health care provider)

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as determined by the health care provider seeking such consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of eighteen (18):

Parent, legal guardian or other court-appointed personal representative,

Adult next-of-kin.

For a living or deceased adult age eighteen (18) or over:

Agent authorized by durable power of attorney for health care,

Legal guardian or other court-appointed personal representative,

Spouse,

Adult children,

Parent,

Adult next-of-kin.

"Local Health Authority" means THE FULL-TIME OFFICIAL HEALTH DEPARTMENT OR BOARD OF HEALTH, HAVING JURISDICTION OVER A PARTICULAR AREA. (Illinois Sexually Transmissible Disease Control Act (Ill. Rev. Stat. 1991⁸⁹, ch. 111 1/2, par. 7401 et seq.).

"PERSON" INCLUDES ANY NATURAL PERSON, PARTNERSHIP, ASSOCIATION, JOINT VENTURE, TRUST, GOVERNMENTAL ENTITY, PUBLIC OR PRIVATE CORPORATION, HEALTH FACILITY OR OTHER LEGAL ENTITY. (Section 3(h) of the AIDS Confidentiality Act.)

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987 (Ill. Rev. Stat. 1991⁸⁹, ch. 111, par. 4401-1 et seq.).

"TEST" OR "HIV TEST" MEANS A TEST TO DETERMINE THE PRESENCE OF THE ANTIBODY OR ANTIGEN TO HIV, OR OF HIV INFECTION. (Section 3(g) of the AIDS Confidentiality Act.)

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"WRITTEN INFORMED CONSENT" MEANS AN AGREEMENT IN WRITING EXECUTED BY THE SUBJECT OF A TEST OR THE SUBJECT'S LEGALLY AUTHORIZED REPRESENTATIVE WITHOUT UNDUE INDUCEMENT such as ANY ELEMENT OF FORCE, FRAUD, DECEIT, DURESS OR OTHER FORM OF CONSTRAINT OR COERCION (See, Appendix A, Illustration A.), WHICH ENTAILS AT LEAST THE FOLLOWING:

A FAIR EXPLANATION OF THE TEST, INCLUDING ITS PURPOSE, POTENTIAL USES, LIMITATIONS AND THE MEANING OF ITS RESULTS; AND

A FAIR EXPLANATION OF THE PROCEDURES TO BE FOLLOWED, INCLUDING THE VOLUNTARY NATURE OF THE TEST, THE RIGHT TO WITHDRAW CONSENT TO THE TESTING PROCESS AT ANY TIME prior to the completion of the laboratory tests, THE RIGHT TO ANONYMITY TO THE EXTENT PROVIDED BY LAW WITH RESPECT TO PARTICIPATION IN THE TEST AND DISCLOSURE OF TEST RESULTS, AND THE RIGHT TO CONFIDENTIAL TREATMENT OF INFORMATION IDENTIFYING THE SUBJECT OF THE TEST AND THE RESULTS OF THE TEST, TO THE EXTENT PROVIDED BY LAW. (Section 3(d) of the AIDS Confidentiality Act.)

(Source: Emergency amendment at 17 Ill. Reg. 1204, effective January 7, 1993, for a maximum of 150 days)

Section 697.30 Incorporated Materials
EMERGENCY

The following materials are incorporated or referenced in this Part:

a) Illinois Statutes

- 1) AIDS Confidentiality Act (Ill. Rev. Stat. 1991⁸⁹, ch. 111 1/2, par. 7301 et seq.),
- 2) AIDS Registry Act (Ill. Rev. Stat. 1991⁸⁹, ch. 111 1/2, par. 7351 et seq.),
- 3) AN ACT in relation to the prevention of certain communicable diseases (Ill. Rev. Stat. 1991⁸⁹, ch. 111 1/2, par. 22.11 et seq.),
- 4) The Unified Code of Corrections (Ill. Rev. Stat. 1991⁸⁹, ch. 38, par. 1001-1-1 et seq.),
- 5) "AN ACT concerning certain rights of medical patients" (Ill. Rev. Stat.

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199189, ch. 111 1/2, par. 5401 et seq.),

- 6) The Civil Administrative Code of Illinois (Ill. Rev. Stat. 199189, ch. 127, par. 55.01 to 55.45).

b) Illinois Rules

- 1) Control of Communicable Disease Code (77 Ill. Adm. Code 690) (See in particular Section 697.140(a)(4) of this Part),
- 2) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) (See in particular Sections 697.140(a)(4) and 697.210(a) of this Part),
- 3) Illinois Clinical Laboratories Code (77 Ill. Adm. Code 450) (See in particular Section 697.180(c) and (e)),
- 4) Blood Labeling Code (77 Ill. Adm. Code 460) (See in particular Section 697.180(c) and (e) of this Part),
- 5) Sperm Bank and Tissue Bank Code (77 Ill. Adm. Code 470) (See in particular Section 697.180(c) and (e)),
- 6) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) (See in particular Section 697.40 of the Part),
- 7) Illinois Blood Bank Code (77 Ill. Adm. Code 490).

c) Federal Rules

42 CFR 2a. 4(a) - (j), 2a. 6(a) - (b), and 2a. 7(a) - (b).

d) Other Codes, Guidelines and Standards

- 1) "Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome," Centers for Disease Control. Mortality and Morbidity Weekly Report (MMWR) Supp. December 18, 1992: 41(RR17), 4987-36 (No. 15); Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333. (See the definition of AIDS in Section 697.20)
- 2) "AIDS Confidential Case Report" a form prepared by the Centers for Disease Control, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget No. 0920-0009. (1987) (See Section 697.210)

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- 3) Guidelines for the Management of Chronic Infectious Diseases in School Children. (See Section 697.410)
- 4) "Classification Scheme for HIV Infection", Centers for Disease Control. Morbidity and Mortality Weekly Report (MMWR). Vol. 35, No. 20, May 23, 1986, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.
- e) All citations to federal regulations in this Part concern the specified regulations in the 1987 Code of Federal Regulations, unless another date is specified.
- f) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Emergency amendment at 17 Ill. Reg. 1204, effective January 7, 1993, for a maximum of 150 days)

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10) Are there any proposed amendments pending on this Part? No

11) Statement of Statewide Policy Objectives:

This rulemaking may require minimal additional expenditures by units of local government.

12) Information and questions regarding these emergency amendments shall be directed to:

Gail M. DeVito, Division of Governmental Affairs, Illinois Department of Public Health,
535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 (217)782-6187.

The full text of the Emergency Amendments begins on the next page:

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1) The Heading of the Part:

Control of Sexually Transmissible Diseases Code

2) Code Citation:

77 Ill. Adm. Code 693

3) Section Numbers:

693.15
693.20

Emergency Action:

Amendment
Amendment

4) Statutory Authority:

The Illinois Sexually Transmissible Diseases Control Act (Ill. Rev. Stat. 1991, ch. 111
1/2, par 7401 et seq.)

5) Effective Date of Amendments: January 7, 1993

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire? Not Applicable

7) Date Filed in Agency's Principal Office: January 7, 1993

8) Reason for Emergency: This rulemaking is necessary due to the Centers for Disease Control and Prevention's (CDC) implementation of an expanded AIDS case definition. The Illinois Department of Public Health was officially notified of the planned implementation on December 14, 1992, and the new case definition became effective January 1, 1993.

9) A Complete Description of the Subjects and Issues Involved: This emergency rulemaking amends existing Department rules concerning the definition of a case of AIDS to reflect the newly effective revised CDC definition. The AIDS Registry Act specifies that AIDS cases in Illinois are to be defined as per the CDC. The revised HIV/AIDS classification system and expanded AIDS surveillance case definition were published in the December 18, 1992 supplement to the Morbidity and Mortality Weekly Report (MMWR). Under the new definition, adults and adolescents with documented HIV infection who have CD4+ T-lymphocyte counts less than 200 cubic millimeters or a CD4+ percent less than 14 will be reportable as AIDS cases. In addition to the 23 clinical conditions in the 1987 case definition, all persons with documented HIV infection and any of the following conditions will be AIDS-defining: pulmonary tuberculosis; recurrent pneumonia (within a twelve month period); or invasive cervical cancer. The expanded definition is expected to increase reported cases of AIDS in Illinois by as much as 75 percent in the first year.

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONSPART 693
CONTROL OF SEXUALLY TRANSMISSIBLE DISEASES CODE

Section	
693.10	Definitions
693.15	Incorporated Materials
EMERGENCY	
693.20	Reportable STDs and Laboratory Results
EMERGENCY	
693.30	Reporting
693.35	Fines and Penalties
693.40	Contact Interview and Investigation
693.45	Notification of Health Care Contacts
693.50	Physical Examination and Medical Treatment for Syphilis, Gonorrhea, Chlamydia
693.60	Isolation for Syphilis, Gonorrhea, Chlamydia
693.70	Counseling and Education for AIDS and HIV
693.80	Isolation for AIDS and HIV
693.90	Quarantine
693.100	Confidentiality
693.110	Examination and Treatment of Prisoners
693.120	Certificate of Freedom from STDs
693.130	Treatment of Minors
693.140	Control Measures

AUTHORITY: Implementing and authorized by Illinois Sexually Transmissible Disease Control Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 7401 et seq.) and "AN ACT in relation to public health" (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 22 and 22.04).

SOURCE: Adopted at 12 Ill. Reg. 10097, effective May 27, 1988; amended at 15 Ill. Reg. 11686, effective August 15, 1991; emergency amendment at 15 Ill. Reg. 16462, effective October 28, 1991 for a maximum of 150 days; amended at 16 Ill. Reg. 5921, effective March 30, 1992; emergency amendment at 17 Ill. Reg. 1213, effective January 7, 1993, for a maximum of 150 days.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE OR PARAPHRASE THEREOF.

Section 693.15 Incorporated Materials
EMERGENCY

The following materials are incorporated or referenced in this Part:

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a)	Illinois Statutes
1)	"Illinois Sexually Transmissible Disease Control Act" (Ill. Rev. Stat. 1991 89 , ch. 111 1/2, par. 7401 et seq., as amended by P.A. 87-763, effective October 4, 1991).
2)	The "Department of Public Health Act" (Ill. Rev. Stat. 1991 4989 and 1990 Supp. , ch. 111 1/2, pars. 22 and 22.04).
3)	The "Consent by Minors to Medical Procedures Act" (Ill. Rev. Stat. 1991 89 and Supp. , ch. 111, par. 4501 et seq. in particular par. 4504).
b)	Illinois Rules
1)	AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697), (See Sections 693.30 (b)(1), 693.30 (d) and (h) and 693.100 (b)(4) and (5) of this Part).
2)	Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) (See Section 693.35 of this Part).
3)	Program Standards for Local Health Departments (77 Ill. Adm. Code 615) (See Section 693.40 (c)(7) of this Part).
c)	Other Codes, Guidelines and Standards
1)	"Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome", Centers for Disease Control (CDC). Mortality and Morbidity Weekly Report (MMWR) Supp. December 18, 1992. 41(RR17), 4987- 3646-18 ; Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.
2)	"AIDS Confidential Case Report" a form prepared by the Centers for Disease Control, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget (OMB) No. 0920-0009.
3)	"Recommendations for Prevention of HIV Transmission in Health-Care Settings" (Centers for Disease Control, MMWR 1987, vol. 36, Supp. no. 25, pages 3S-18S).
4)	Joint Advisory Notice, Department of Labor/Department of Health and Human Services, HBV/HIV, Federal Register, Vol. 52, No. 210, pp. 41818-41823, October 30, 1987 (See Section 639.140)

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- 2) A serologic test for syphilis, either presumptive or confirmatory, which is weakly reactive, reactive, or positive,
- 3) A test for gonorrhea or chlamydia, such as the smear, culture or ELISA test, which is reactive or positive.

(Source: Emergency amendment at 17 Ill. Reg. 1213, effective January 7, 1993, for a maximum of 150 days)

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- 5) "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B virus to Patients During Exposure-Prone Invasive Procedures" (Centers for Disease Control, Morbidity and Mortality Weekly Report (MMWR), vol. 40, no. RR-8, July 12, 1991).
- d) All citations to federal regulations in this Part concern the specified regulations in the 1990 Code of Federal Regulations, unless another date is specified.
- e) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Emergency amendment at 17 Ill. Reg. 1213, effective January 7, 1993, for a maximum of 150 days)

Section 693.20 Reportable STDs and Laboratory Results
EMERGENCY

- a) The Department has determined that the following shall be considered reportable STDs:
 - 1) Acquired Immunodeficiency Syndrome (AIDS), as defined by the Centers for Disease Control of the United States Public Health Service, in "Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome", Centers for Disease Control. MMWR Suppl. December 18, 1992; 41(RR17), 4987-3646-15; Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.
 - 2) HIV Infection (See Section 693.10 for a definition),
 - 3) Syphilis,
 - 4) Gonorrhea,
 - 5) Chlamydia.
- b) The Department has determined that the following shall be considered reportable STD laboratory results:
 - 1) A serologic test for antibodies to the human immunodeficiency virus (HIV), which is reactive on two or more enzyme-linked immunosorbent assay (ELISA) tests and on one confirmatory Western blot assay test or Indirect Fluorescent Antibody Test (See 77 Ill. Adm. Code 697.100(b)),

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NOTICE OF EMERGENCY AMENDMENT(S)		NOTICE OF EMERGENCY RULES	
1) <u>Heading of the Part:</u> Issuance of Licenses		<u>Section Number</u>	<u>Proposed Action</u>
2) <u>Code Citation:</u> 92 Ill. Adm. Code 1030		1030.115	Amendment
3) <u>Section Number</u>	<u>Emergency Action</u>	1030.120	Amendment
1030.16	New Section	1030.130	Amendment
1030.18	New Section		
4) <u>Statutory Authority:</u> Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (625 ILCS 5/6-100 et seq. formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-100 et seq.) and Section 6-104(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code (625 ILCS 5/2-104(b) formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-104(a)).			16 Ill. Reg. 17229 (November 13, 1992) 16 Ill. Reg. 12138 (July 31, 1992) 16 Ill. Reg. 12138 (July 31, 1992)
5) <u>Effective Date of Amendment:</u> January 13, 1993		11) <u>Statement of Statewide Policy Objectives (if applicable):</u> This rule has no impact on local governments.	
6) <u>If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire:</u> This emergency amendment will remain in effect for the 150-day period.		12) <u>Information and Questions Regarding this Amendment shall be Directed to:</u>	
7) <u>Date filed in Agency's Principal Office:</u> January 13, 1993		Robert J. Watkins Assistant Counsel to the Secretary Driver Services Department 2701 S. Dirksen Parkway Springfield, IL 62723	
8) <u>Reason for Emergency:</u> Last Summer the Driver's License Medical Review Act was repealed under P.A. 87-860. During the Fall Veto Session, the Governor signed P.A. 887-1249 which created the Driver's License Medical Review Act of 1992. Pursuant to this new law, the responsibility for the Driver's License Medical Advisory Board was shifted from the Department of Public Health to the Secretary of State. The reason for the emergency rulemaking is to outline the procedures for the processing of medical cases by the Department of Driver Services, including the referral of cases to the Board. This rulemaking is imperative to the continued operation of the Board and the licensing of citizens with controlled medical conditions who do not pose a threat to traffic safety.		The full text of the Emergency Amendment begins on the next page:	
9) <u>A complete description of the subjects and issues involved:</u> 1030.16 outlines the procedures for determining when an individual must file a medical report as a condition of licensure. The rule also specifies in which instances a medical report(s) will be forwarded to the Medical Advisory Board for review. This section codifies the procedures for contesting a finding by the Board, as well as requesting a hearing. 1030.18 describes the types of functions a person must be able to perform in order to operate a motor vehicle safely. These criteria are used by the Board when reviewing cases which have been forwarded by the Driver Services Department. The criteria shall also be used in determining the scope of a hearing.			
10) <u>Are there any Proposed Amendments to this Part Pending? Yes.</u>			

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NOTICE OF EMERGENCY AMENDMENTS
TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1030

ISSUANCE OF LICENSES

Section What Persons Shall Not be Licensed or Granted Permits

1030.10 Procedure for Obtaining a Driver's License

1030.12 Driver's License Medical Advisory Board

1030.15 Cite for Re-examination

1030.16 Physical and Mental Evaluation

EMERGENCY

1030.18 Medical Criteria Affecting Driver Performance

EMERGENCY

1030.20 Classification of Drivers-References

1030.30 Classification Standards

1030.40 Fifth Wheel Equipped Trucks

1030.50 Bus Driver's Authority, Religious Organization and

Senior Citizen Transportation Vehicle

1030.55 Commuter Van Driver Operating a For-Profit

Ridesharing Arrangement

1030.60 Third-Party Certification Program

1030.63 Religious Exemption for Social Security Numbers

1030.65 Instruction Permits

1030.70 Driver's License Testing/Vision Screening

1030.75 Driver's License Testing/Vision Screening With Vision Aid

Arrangements Other Than Standard Eye Glasses or Contact Lens(es)

1030.80 Driver's License Testing/Written Test

1030.81 Endorsements

1030.84 Vehicle Inspection

1030.85 Driver's License Testing/Road Test

1030.86 Multiple Attempts/Road Test

1030.88 Exemption of Facility Administered Road Test

1030.89 Temporary Licenses

1030.90 Requirement For Photograph and Signature of Licensee

On Driver's License

1030.91 Disabled Person/Handicapped Identification Card

1030.92 Restrictions

1030.93 Restricted Local Licenses

1030.94 Duplicate or Corrected Driver's License or Instruction Permit

1030.95 Consular Licenses

1030.100 Anatomical Gift Donor

1030.110 Emergency Medical Information Card

1030.115 Change-of-Address

1030.120 Issuance of a Probationary License

1030.130 Grounds for Cancellation of a Probationary License

1030. Appendix A Questions Asked of a Driver's License Applicant

1030. Appendix B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code (625 ILCS 5/6-100 et seq., formerly Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 6-100 et seq.) and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (625

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ILCS 5/2-104(b), formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 2-104(b)).

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 13487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; amended at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendments at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days.

Section 1030.16 Physical and Mental Evaluation
EMERGENCY

a) For purposes of this section the following definitions shall apply:

- 1) "Adjudication of Disability" - an order by a court of competent jurisdiction declaring a person, because of mental deterioration or physical incapacity, is not fully able to manage his person or estate pursuant to Sections 11a-2 and 11a-3 of the Probate Act of 1975 (755 ILCS 5/11a-2 and 5/11a-3, formerly Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 11a-2 and 11a-3).
- 2) "Cancellation" - the annulment or termination by formal action of the Secretary of a person's driver's license because the licensee is no longer entitled to such license in accordance with Section 1-110 of the Illinois Vehicle Code and 6-201 of the Illinois Driver Licensing Law of the Illinois Vehicle Code (625 ILCS 5/1-110 and 5/6-201, formerly Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 1-110 and 6-201).

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- 3) "Competent Medical Specialist" - a person licensed under the Medical Practice Act, or similar law of another jurisdiction, to practice medicine in all of its branches (225 ILCS 60 et seq., formerly Ill. Rev. Stat. 1991, ch. 111, par. 4400 et seq.).
- 4) "Current Medical Report" - any medical report completed within three (3) months of receipt by the Department which is signed and dated by a competent medical specialist.
- 5) "Department" - the Department of Driver Services of the Office of the Secretary of State.
- 6) "Department of Administrative Hearings" - the Department of Administrative Hearings of the Office of the Secretary of State.
- 7) "Driver" - any person who is currently licensed to operate a motor vehicle or any person applying for or renewing a driver's license.
- 8) "Favorable Medical Report" - a current medical report which has been completed in its entirety which does not require additional information and/or clarification. A favorable medical report specifies the physical and/or mental disability/disorder; contains a professional opinion from the competent medical specialist that the driver is medically fit to safely operate a motor vehicle; and contains an executed medical agreement.
- 9) "Firsthand Knowledge" - information gleaned directly from its source.
- 10) "Illinois Medical Advisory Board (Board)" - a panel consisting of at least 9 physicians appointed by the Secretary pursuant to Section 6-902 of the Driver License Medical Review Law of 1992 (625 ILCS 5/6-902, formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-902).
- 11) "Incomplete Medical Report" - a medical report which has not been completed in its entirety, or a medical agreement which has not been signed and dated by the driver. Examples of an incomplete medical report include, but are not necessarily limited to: a medical report which does not include the name, address, signature or professional license number of the competent medical specialist, or the report which is not dated; or contains illegible information; or fails to answer any of the questions contained within the report.
- 12) "Law Enforcement" - police officer, sheriff, coroner, municipal prosecutor, or state's attorney.

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- 13) "Medical Agreement" - an agreement signed and dated by the driver, maintained in conjunction with a medical report whereby the driver agrees to remain under the care of a competent medical specialist and to abide by all of the terms and conditions contained within the agreement.
- 14) "Medical Denial" - an entry on a person's driving record by the Department indicating a driver may not renew his/her driver's license until the conditions set forth by the Department are met pursuant to this Section or Section 6-103 of the Illinois Vehicle Code (625 ILCS 5/6-103, formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-103).
- 15) "Medical Report" - a confidential medical questionnaire designed by the Department and approved by the Illinois Medical Advisory Board, or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department. The medical report shall be directed to the Department and contain the date the competent medical specialist completed the report, the name, address, signature and profession license number of the competent medical specialist. The report must also contain the name, address, date of birth and driver's license number, if known, of the driver. A medical agreement upon execution by the driver shall be incorporated into and maintained on file with the driver's medical report.
- 16) "Medical Restriction Card" - a card designed and issued by the Department which describes and explains the limitations and/or conditions noted in the restriction area of a person's driver's license. The driver must abide by all the medical restrictions placed on his/her license as described on the medical restriction card, and upon receipt of the card from the Department, the driver must carry the medical card with his/her driver's license at all times.
- 17) "Mental Disorder or Disability" - a scientifically recognized condition which may medically impair a person's mental health to the extent he/she is unable to safely operate a motor vehicle.
- 18) "National Driver Register (NDR)" - files on drivers maintained by the U.S. Department of Transportation, National Highway Traffic Safety Administration.
- 19) "Official Investigation" - the act of examining and inquiring into an occurrence or circumstance with care and accuracy by a duly authorized member of a local, state or federal agency while acting in his/her professional capacity.

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- 20) "Physical Condition or Disability" - a scientifically recognized condition which may medically impair a person's physical health to the extent he/she is unable to safely operate a motor vehicle.
- 21) "Preliminary Favorable Medical Report" - a current medical report or a current written statement on official letterhead which is signed and dated by a competent medical specialist indicating in his/her professional opinion the driver is medically fit to safely operate a motor vehicle, however, additional information and/or clarification is needed before the medical report can be classified as favorable or unfavorable.
- 22) "Questionable Medical Report" - a medical report which contains medical information which raises some reasonable doubt regarding the driver's medical ability to safely operate a motor vehicle. Examples of questionable medical reports include, but are not necessarily limited to:
 - A) a medical report which indicates the driver has experienced an attack of unconsciousness within the past six (6) months; or
 - B) the prognosis of the mental disorder/disability does not indicate good, favorable, excellent, stable, fair, or fine; or
 - C) the medical report lacks a professional opinion indicating whether or not the driver is medically fit to safely operate a motor vehicle; or
 - D) the medical report was signed and/or completed by someone other than a competent medical specialist; or
 - E) the medical report indicates the driver's medical condition is uncontrollable; or
 - F) the medical report indicates the driver is not taking his/her medication faithfully; or
 - G) the competent medical specialist recommends the driver have a driver's license, however, expresses reservations about the driver's ability to safely operate a motor vehicle.
- 23) "Rescind Order" - a removal by formal action of an order canceling or medically denying issuance of a driver's license to a person.
- 24) "Secretary of State Employee" - all supervisory personnel with the Department of Driver Services and the Department of Administrative Hearings.

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- 25) "Termination of an Adjudication of Disability Order" - an order by a court of competent jurisdiction terminating an adjudication of disability of the driver pursuant to Sections 11a-2 and 11a-3 of the Probate Act of 1975 (75 ILCS 5/11a-2 and 5/11a-3, formerly Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 11a-2 and 11a-3).
- 26) "Termination Order" - the ending of an order canceling or medically denying the issuance of a driver's license to a person.
- 27) "Unfavorable Medical Report" - a medical report signed and completed by a competent medical specialist containing his/her professional opinion that due to a physical and/or mental disorder/disability the driver is not medically fit to operate a motor vehicle.
- 28) "Unfit to Stand Trial Order" - an order by a court of competent jurisdiction whereby a defendant because of his/her mental or physical condition he/she is unable to understand the nature and purpose of the proceedings against him/her or to assist in his/her defense pursuant to Ch. 38, Section 104-10 et seq. of the Code of Criminal Procedure (725 ILCS 5/104-10 et seq., formerly Ill. Rev. Stat. 1991, ch. 38, par. 104-10 et seq.).
- b) The Department shall require a driver to submit a medical report from a competent medical specialist when:
 - 1) the driver answers in the affirmative to any question on the driver's license application regarding physical or mental health pursuant to Section 6-109 of the Illinois Vehicle Code (625 ILCS 5/6-100 et seq., formerly Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 6-100 et seq.); or
 - 2) the Department receives written comments and/or recommendations based upon firsthand knowledge or pursuant to an official investigation that brings into question a driver's physical or mental ability to safely operate a motor vehicle. Such comments and/or recommendations are confidential and must be submitted on official letterhead and signed by one of the following sources:
 - A) a competent medical specialist;
 - B) a law enforcement official;
 - C) a member of the Judiciary;
 - D) a member of the Board;
 - E) the National Driver Register;

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- F) a Secretary of State employee;
- G) an employee of the U.S. Department of Transportation, Office of Motor Carriers.
- 3) The Department receives an Adjudication of Disability court order where the court appointed a guardian to manage the financial affairs or the estate of the person.
- 4) The driver is renewing a driver's license which at the time of issuance required the driver to submit a medical report, except as provided in Subsection (m) of this Section.
- c) The Department shall cancel or medically deny the issuance of a driver's license upon receipt of an Adjudication of Disability order where the court appointed a guardian to make responsible decisions concerning the care of the person or of both the person and his/her financial affairs or estate, or the Department receives an order finding the driver unfit to stand trial.
- 1) The notice of cancellation shall be mailed to the court appointed guardian of the driver.
- 2) The cancellation order shall remain in effect until the court issues an order terminating the adjudication of disability; or the driver is found fit to stand trial.
- 3) Upon the termination of a cancellation under this Subsection, the person may reapply for a driver's license as outlined in Section 6-106 of the Illinois Vehicle Code (625 ILCS 5/6-106, formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-106).
- d) The Department shall cancel or medically deny a driver pursuant to Sections 6-103(8), and 6-201(a)(5) of the Illinois Vehicle Code, if one or more of the sources listed in Subsection (b)(2) of this Section submits signed, written notification on official letterhead to the Department that based upon firsthand knowledge or pursuant to an official investigation the person was the driver of a motor vehicle involved in any type of accident resulting from a seizure, an attack of unconsciousness or a blackout (625 ILCS 5/6-103(8) and 5/6-201(a)(5), formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 6-103(8) and 6-201(a)(5)).
- 1) Following a cancellation or denial of a license pursuant to this Subsection, the driver must submit a medical report to be forwarded to the Board and abide by all subsequent requests by either the Department or the Board, if any, for further information and/or clarification prior to being eligible to reapply for a driver's license.

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- 2) Any medical reports and/or other information concurrently or subsequently received by the Department shall be referred along with the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in Subsection (k) of this Section.
- e) When a driver is required to submit a medical report pursuant to Subsection (b) of this Section, the Department shall furnish the appropriate form to be completed by a competent medical specialist to the driver. The driver must then resubmit the completed medical report to the Department within 20 days of issuance.
- 1) If a medical report is not received by the Department within the above specified time, the driver shall be canceled or medically denied a driver's license.
- 2) If a driver is canceled pursuant to this Subsection and a preliminary favorable or favorable medical report is subsequently received, the cancellation shall be rescinded, provided, an unfavorable report is not received in the interim.
- f) If pursuant to Subsection (b) of this Section, the Department receives a favorable medical report the Department shall issue or renew the person's driver's license, unless the driver is otherwise ineligible for the same.
- g) If pursuant to Subsection (b) of this Section, the Department receives an unfavorable medical report the Department shall cancel or medically deny the driver pursuant to Sections 6-103(8) and 6-201(a)(5) of the Illinois Vehicle Code.
- h) If pursuant to Subsection (b) of this Section, the Department receives a preliminary favorable report, the Department shall issue or renew the person's driver's license, unless the driver is otherwise ineligible for the same. The Department shall then make a further determination as to the type of information and/or clarification that is needed in order to finish processing the report.
- 1) If the report is incomplete or one which is not current, a request shall be made in writing to the driver or the competent medical specialist for the necessary information required to process the report.
- A) If the Department requests additional information from the driver, and the Department does not receive this information within 45 days of the request, the Department shall cancel or medically deny the renewal of the person's driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.

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- B) If the Department requests additional information from the competent medical specialist and the Department does not receive this information within 45 days of the request, the incomplete medical report shall be forwarded to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in Subsection (k) of this Section.
- C) If a cancellation order is entered based upon an incomplete medical report or one which is not current and a favorable medical report is subsequently received, a rescind order shall be entered, provided an unfavorable medical report is not received in the interim.
- 2) If the report is questionable, the Department shall forward the medical report to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in Subsection (k) of this Section.
- i) Every driver who is required to submit a medical report pursuant to this Section must also complete and sign a medical agreement.
- 1) This agreement shall include, but not necessarily be limited to the following conditions and/or information:
- A) a condition that the driver remain under the care of his/her competent medical specialist;
- B) a condition that the driver will adhere to the treatment and/or medication;
- C) authorization by the driver to the competent medical specialist to report any change in the driver's condition which would impair the driver's ability to operate a motor vehicle;
- D) possible consequences for failing to abide by any or all of the conditions contained in the medical agreement;
- 2) If a driver fails to submit a medical agreement to the Department within 20 days of the request, the Department shall cancel or medically deny the person's driver's license.
- 3) A driver canceled pursuant to this Subsection for failure to submit a medical agreement within the specified time and the driver subsequently complies with all of the requests of the Department, the cancellation shall be rescinded.
- j) If the Department receives a report or statement from a competent

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medical specialist indicating the driver failed to abide by any of the terms of the medical agreement, the Department shall:

- 1) cancel or medically deny the driver if the medical report or medical statement does not contain a professional opinion that the driver can safely operate a motor vehicle, and forward the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle pursuant to Subsection (k) of this Section.
- 2) forward the entire case to the Board for determination as to the driver's ability to operate a motor vehicle pursuant to Subsection (k) of this Section, if the medical report or medical statement contains a professional opinion that the driver can safely operate a motor vehicle.
- 3) cancel or medically deny a driver if the medical report or medical statement contains a professional opinion the driver can not safely operate a motor vehicle; the entire file shall be considered an unfavorable medical report as outlined in Subsection (g) of this Section.
- k) The Department shall forward a driver's case to the Board when:
 - 1) the driver was medically denied or canceled based upon the Board's last recommendation; or
 - 2) the Board has requested to review intermittent reports; or
 - 3) a different competent medical specialist submits a favorable medical report contradictory to an unfavorable medical report on file, which was used as the basis to deny or cancel driving privileges; or
 - 4) the Department receives a questionable medical report; or
 - 5) the Department has received an incomplete medical report in which additional information and/or clarification was requested from the competent medical specialist, who did not supply such information to the Department within the 45 day period as outlined in Subsection (h)(1)(a) of this Section; or
 - 6) the Department receives notification the driver has failed to abide by any of the terms of his/her medical agreement, and the competent medical specialist will not render a professional opinion as to whether the driver is medically fit to safely operate a motor vehicle; or
 - 7) the Department receives a request from a driver who wishes to have all medical reports on file with the Department reviewed by the Board; or

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8) the Department receives a request from a driver who wishes to appeal a Type B, C, D, E, F, G, J01, or any other medical restriction which has been added to his/her driver's license pursuant to Section 1030.92 of this Part.

1) When a case is referred to the Medical Advisory Board for review by the Department, the case shall be initially reviewed in the following manner:

1) The Chairperson or his/her designee shall assign the case to an individual Board member based upon his/her specialty or field of expertise in medicine. The Department shall serve as a correspondent for the collection and distribution of all medical reports and/or other information between the driver and the Board.

2) Upon receipt of the case from the Department the individual Board member shall review the entire file and prepare an informal determination regarding the driver's ability to safely operate a motor vehicle to the Chairperson or his/her designee.

A) The Board member shall consider the driver's past driving record as evidenced by his/her driving abstract, medical reports, and any other medical information deemed to have probative value by the Board member regarding the driver's case.

B) The Board member shall consider any medications and/or rehabilitative devices currently being used or available to the driver.

C) The Board member shall use the medical criteria listed in Section 1030.18 of this Part when reviewing the driver's medical condition.

3) When reviewing a driver's case, the Board member may require the driver to submit him/herself to further medical examination(s) and to agree to make the results of these examinations available to the Board member for use in rendering an informal determination.

A) The driver shall be solely responsible for the selection, scheduling, and expenses related to any additional examination(s) which may be required of the driver.

B) While the Board member may designate the type of physician or medical specialist with whom the driver needs further examination, the Board member shall not recommend a particular physician or medical specialist.

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C) The driver shall have up to 45 days from the date of the request to submit additional reports to the Department.

D) Any driver who refuses to submit to additional examination(s) as requested or refuses to make these reports available to the Board member shall be canceled or medically denied until he/she complies with the Board member's request and the Board member is able to render an informal determination to the Chairperson pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.

4) The informal determination shall include the medical condition of the driver and the limitations associated with the condition which could reasonably impair a driver's ability to safely operate a motor vehicle; the scope of driving privilege, if any; and the reasons for the Board member's decision.

5) All stages of the informal determination process shall be made as soon as reasonably possible given the individual Board member's and Chairperson's caseload and the complexity of the case.

6) The name of the Board member rendering the informal determination shall not be disclosed to the driver under review.

m) Upon receipt of the informal determination from the Board member, the Chairperson or his/her designee shall make an informal recommendation to the Department regarding the driver's fitness to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.

1) The informal recommendation by the Chairperson or his/her designee shall include the existence of the medical condition and/or limitation which may impair the driver's ability to safely operate a motor vehicle.

2) The informal recommendation shall also be based upon the Findings of Fact and opinion of the individual Board member including, but not necessarily limited to, medical evaluations, reports submitted by medical specialists, medications taken by the driver, and his/her driving record, and other scientifically recognized information commonly accepted in the medical profession.

3) The informal recommendation shall also indicate the scope of driving privileges which would enable the driver to safely operate a motor vehicle, including the extent, if any, to which compensatory aids and devices which must be used and the need of future controls.

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- 2) The notice shall specifically state the driver has up to 45 days from the date of the notice to submit all additional medical reports to the Department for consideration by the Panel, if he/she so chooses.
- 3) If the driver desires to furnish additional medical reports and/or statements he/she may do so by submitting all reports and statements together as one complete document for review by the Panel. The document must be delivered to the Department at the address as indicated on the confirmation notice.
- 4) The Department shall at the direction of the Chairperson or his/her designee prepare and forward the entire case to the Review Panel upon receipt of the document from the driver, or a written statement from the driver indicating he/she does not wish to submit additional reports, or at the expiration of 45 days whichever occurs first.
- 5) Each member shall consider the contents of the file which was used to make the formal determination, including additional medical reports submitted by the driver on his/her behalf and new entries listed on the driver's driving record, if any. The Panel shall use the same medical criteria and procedures that apply when reviewing an individual case, including the ability to request additional medical examinations as found in Subsection 1)3) supra. The Review Panel shall only consider evidence which exists in written form. No oral testimony shall be allowed during this type of review.
- 6) The formal determination under Panel review shall be made as soon as reasonably possible given the Board member and Chairperson's caseload, and the complexity of the case. Panel review cases shall be given priority over the review of individual cases.
- 7) Upon completion of the panel review, the formal determination of each Panel review member shall be forwarded to the Chairperson or his/her designee. The Formal Determination shall contain the same elements as outlined in Subsection 1)4) supra.
- 8) Any restriction of driving privileges, cancellation, or medical denial shall remain in effect unless and until the Department notifies the driver to the contrary.
- p) Upon receipt of each of the Review Panel's determinations, the Chairperson or his/her designee shall make a formal recommendation to the Department regarding the driver's ability to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.

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- 4) In the event driving privileges are restricted or denied the formal recommendation shall also state the reasoning for such restriction or denial in accordance with the medical criteria stated in Section 1030.18 of this Part.
- 5) The Chairperson or his/her designee shall have the authority to confer with the Board member who rendered the determination in the event the Chairperson or his/her designee needs to confirm or clarify any portion of the Board member's Formal Determination.
- n) Upon receipt of the informal recommendation the Department shall take the appropriate action depending upon the recommendation of the Chairperson or his/her designee on behalf of the Board.
- 1) If the Department receives a recommendation from the Board that in its professional opinion the driver is not medically fit to safely operate a motor vehicle, the Department shall enter an order canceling or medically denying the driver pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.
- 2) If the Department receives a recommendation from the Board that in its professional opinion the driver is medically fit to safely operate a motor vehicle, the Department shall rescind or terminate any medically related cancellation orders and allow the driver to make application for a new driver's license pursuant to Sections 1-110, 6-106, and 6-109 of the Illinois Vehicle Code (625 ILCS 5/1-110, 5/6-106, and 5/6-109, formerly Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 1-110, 6-106, and 6-109).
- A) The Department shall rescind the cancellation if the cancellation was for failure to comply with a request by either the Department or the Board.
- B) The Department shall terminate the cancellation if the cancellation was based upon a previous unfavorable medical report, and the driver is otherwise in compliance with this Section.
- o) If a driver desires to contest a restriction, cancellation, or denial of his/her driving privileges, the driver must request a formal review of his/her case within 20 days of the receipt of the action taken by the Department. Formal review of the driver's case shall be made by a panel of 3 Board members selected by the Chairperson or his/her designee based upon the Board member's specialty or field of expertise. The Board member who rendered the formal determination shall participate in the formal review process. The following procedure shall apply to a case under formal review:
 - 1) The Department shall notify the driver immediately and confirm the driver's request for Panel review within 7 working days of receipt of the same.

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- 1) The recommendation of the Chairperson or his/her designee shall be based upon the majority ruling of the Review Panel members' Formal Determinations.
- 2) The Chairperson shall have the authority to confer with the members of the Review Panel in order to confirm, clarify, and formulate the recommendation to the Department.
- 3) The Chairperson's recommendation shall contain the same elements as outlined in Subsections 1(1) through 4) supra.

q) The Department shall follow the recommendation of the Chairperson or his/her designee based upon the formal opinions rendered by the Review Panel.

- 1) If the Department receives a formal recommendation from the Chairperson or his/her designee to uphold the decision of the individual Board member who first reviewed the case, the action taken by the Department shall remain in effect.

2) If the Department receives a formal recommendation from the Chairperson or his/her designee to amend any portion of the decision of the Board member who first reviewed the case, the Department shall follow the recommendation of the Panel, including the recommendation of the granting of full, limited driving privileges or complete cancellation or denial of the driving privileges.

3) The driver shall be notified immediately by the Department of the Panel's findings along with any change to his/her driving privileges. The driver shall be also notified of his/her right to request a medical hearing regarding the determination rendered by the Hearing Panel.

r) A driver who wants to contest the cancellation or medical denial of his/her driver's license or his/her privilege to obtain a driver's license for medical reasons shall be entitled to a hearing in accordance with 92 Ill. Adm. Code 1001 Subparts A and E, and Section 2-118 of the Illinois Vehicle Code (92 Ill. Adm. Code 1001 Subparts A and E, and 625 ILCS 5/2-118, formerly Ill. Rev. Stat. 1991, ch. 95 1/2, par. 2-118).

s) Unless a competent medical specialist has submitted a medical report indicating the physical or mental condition or disability no longer exists, the Department shall require the driver to submit a medical report at each driver's license renewal.

- 1) The Department shall notify the driver at least 30 days prior to the expiration of his/her driver's license. Such notification

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shall be in writing and mailed to the driver's last known address as indicated on the Department's driving record file.

- 2) The notice shall state that the driver must submit a medical report when renewing his/her driver's license.

t) The Department shall require a driver to appear at a Driver Services facility to receive a corrected driver's license if a competent medical specialist or the Board recommends a driver's license restriction pursuant to Section 1030.92 of this Part.

- 1) The Department shall immediately provide written notification to the driver at his/her last known address as indicated on the Department's driving record file. The notice shall also state failure to comply within 20 days of the request, will result in the cancellation of the person's driver's license pursuant to Section 6-201.5 of the Illinois Vehicle Code, provided, a subsequent medical report is not received from the same competent medical specialist indicating the medical restriction is no longer necessary.

- 2) The Department shall mail a medical card to the driver describing the restriction(s) on his/her driver's license.

- 3) The driver must abide by the restriction(s) contained on the card.

- 4) The driver upon receipt of the medical card from the Department shall carry the medical card with his/her driver's license whenever the driver operates a motor vehicle.

- 5) If a driver is canceled for failing to comply with a request from this Department pursuant to this Subsection, and the driver subsequently complies with all requests of the Department, the cancellation shall be rescinded.

u) The Department shall require periodic medical reports between renewals if so recommended by a competent medical specialist or the Board.

(Source: Emergency rule added at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days)

Section 1030.18 Medical Criteria Affecting Driver Performance
EMERGENCY

Upon receipt of the driver's case from the Department, the Board shall review the case taking into consideration the driver's medical condition in determining the medical fitness of the driver to safely operate a motor vehicle.

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a) The Board shall apply the following medical criteria needed to safely operate a motor vehicle, where applicable, when rendering an opinion to the Department.

- 1) The driver must possess the emotional and intellectual ability to operate a motor vehicle. Specifically, the driver must:
 - A) be free from distractions of hallucinations;
 - B) be free from impulsive behavior, homicidal tendencies, and/or suicidal tendencies;
 - C) be oriented with advanced preparation of his/her destination;
 - D) be able to recognize symbols of language and road signs;
 - E) be able to not only see objects in his/her field of vision, but also to recognize their significance and to react to them with sufficient speed to avoid a catastrophe;
 - F) possess sufficient memory facility to recall his/her destination, recall the significance of road signs and hazards, and recall the operational control of his motor vehicle;
 - G) be able to distinguish left from right and to judge distance and relative speed of his/her motor vehicle as well as other vehicles which may present a potential danger.
- 2) The driver must possess the motor and sensory ability to operate a motor vehicle. Specifically, the driver must:
 - A) possess the ability to sit stably in an erect posture and hold his/her head erect throughout the interval he/she intends to drive;
 - B) be able to turn his/her head at least 25 degrees in either direction in order to amplify the field of vision;
 - C) be able to control the motor vehicle with ease, including the gripping of the steering wheel, reaching of the controls and pedals, all without unbalancing or stressing the driver.

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- D) be able to perform all routine operations of the motor vehicle with steady, well coordinated movements and without undue nervousness. The reaction time of the driver must be average and not limited by muscle, joint or skeletal deformity.
- 3) The driver must have the ability to sustain consciousness throughout the entire interval in which he/she intends to drive.
- 4) The driver must be free from severe pain which could cause sudden incapacitation or the inability to control a motor vehicle.
- 5) The driver must be able to meet the vision requirements as found in Sections 1030.70 and 1030.75 of the Part infra.
- 6) The driver must not be so medicated as to render him/herself incapable to perform other basic tasks necessary to safely operate a motor vehicle.
- b) The Board shall evaluate the severity and/or limitations of the medical condition a driver may have on a case by case basis. The Board shall also take into account the driver's past driving history, as well as all medication and/or mechanical mechanisms being used by, or otherwise available to the driver.
- c) The Board has the ability to recommend full or limited driving privileges to the Department, including, but not limited to, restricted driving hours, use of mechanical devices, and other conditions which the Board deems appropriate depending upon the circumstances of the case.

(Source: Emergency rule added at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days)

DEPARTMENT OF LABOR

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) Section Numbers: 350.280 Adopted Action: Refusal to Modify
- 4) Date Notice of Proposed Rules Published in the Register:
March 13, 1992 16 Ill. Reg. 11 p.3780
- 5) Date JCAR Statement of Objection Published in the Register:
January 4, 1993 17 Ill. Reg. 180

6) Summary of Action Taken by the Agency:

The Joint Committee on Administrative Rules voted to object to the rulemaking as overburdensome on units of local government, and that net cost savings for units of government are not documented.

The Illinois Department of Labor responded by stating the Health and Safety Act and the Safety Inspection and Education Act require adoption and application of all final rules promulgated by federal OSHA, and is statutorily precluded from exempting local governmental agencies from the regulations.

The Illinois Department of Labor has determined that net cost savings cannot be specifically calculated because the Illinois Department of Labor does not know the number of employees affected by the regulation. However, information provided by federal OSHA and others comparing compliance costs with treatment costs for HIV and HBV infections show that net cost savings are a reasonable assumption.

For these reasons, the Agency refused to modify the rulemaking.

ILLINOIS REGISTER

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO PROPOSED RULEMAKING
DEPARTMENT OF INSURANCE

Heading of Part: Automobile Anti-Theft Mechanisms

Code Citation: 50 Ill Adm Code 932

Section Numbers: 932.20
932.40
932.60

Date Originally Published in the Illinois Register: 5/8/92
16 Ill Reg 7279

At its meeting on January 12, 1993, the Joint Committee on Administrative Rules objected to the above cited rulemaking because the 15% discount is not actuarially justified by the loss data available. The equipment being affected by this rulemaking is not yet effective uniformly throughout the State. To mandate a 15% discount at this time would be premature.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed to be a refusal to respond under the Administrative Procedure Act and shall constitute withdrawal of this proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC AID

Heading of Part: Medical Payment

Code Citation: 89 Ill Adm Code 140

Section Numbers: 140.492

Date Originally Published in the Illinois Register: 9/4/92
16 Ill Reg 13397

At its meeting on January 12, 1992, the Joint Committee on Administrative Rules objected to the above cited rulemaking because the Department's failure to allow for separate payment for oxygen when Medicaid clients receive ALS services, contrary to statutory intent expressed in PA 87-1199, results in economic hardship for ambulance companies providing the service.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed to be a refusal to respond under the Administrative Procedure Act and shall constitute withdrawal of this proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of Part: Health Facilities Planning Procedural Rules

Code Citation: 77 Ill Adm Code 1130

Section Numbers: 1130.Appendix A

Date Originally Published in the Illinois Register: 3/27/92
16 Ill Reg 4755

At its meeting on January 12, 1993, the Joint Committee on Administrative Rules objected to Section 1130.Appendix A of the rules because the version of Appendix A submitted at Second Notice was never published at First Notice, thereby preventing an opportunity for submission of any public comment regarding Appendix A.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed to be a refusal to respond under the Administrative Procedure Act and shall constitute withdrawal of this proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of Part: Prevention of Lead Poisoning

Code Citation: 77 Ill Adm Code 845

Section Numbers: 845.30

Date Originally Published in the Illinois Register: 8/7/92
16 Ill Reg 12314

At its meeting on January 12, 1993, the Joint Committee on Administrative Rules objected to Section 845.30 of the above cited rulemaking because the Department's adoption of Section 845.30 requiring owners to abate lead hazards will impose an unreasonable and unnecessary cost on owners for one year under this rulemaking, when PA 87-1144 will shift the focus from abatement to mitigation, effective 1/1/94.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed to be a refusal to respond under the Administrative Procedure Act and shall constitute withdrawal of this proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

Heading of Part: Health Facilities Planning Financial and Economic Feasibility Review

Code Citation: 77 Ill Adm Code 1120

Section Numbers: 1120.20(b)(3)
1120.120(b)
1120.310(d)(1)
1120.Appendix A

Date Originally Published in the Illinois Register: 4/3/92
16 Ill Reg 5205

At its meeting on January 12, 1993, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that the Health Facilities Planning Board refrain from its practice of including provisions adopted as emergency rules at Second Notice if the provisions were not published at First Notice.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 13, 1993 through January 19, 1993, and have been scheduled for review by the Committee at its February 9, 1993 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Office Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
2/25/93	Department of Public Aid, Assistance Standards (89 Ill Adm Code 111)	10/30/92 16 Ill Reg 16491	2/9/93
2/25/93	Department of Rehabilitation Services, Client Financial Participation (89 Ill Adm Code 562)	9/18/92 16 Ill Reg 14189	2/9/93
2/25/93	Department of Rehabilitation Services, Prescreening and Eligibility Determination Process (89 Ill Adm Code 690)	10/2/92 16 Ill Reg 15065	2/9/93
2/26/93	Department of Public Aid, General Assistance (89 Ill Adm Code 114)	10/16/92 16 Ill Reg 15810	2/9/93
2/26/93	Illinois Planning Council on Developmental Disabilities, Americans With Disabilities Act Grievance Procedure (4 Ill Adm Code 800)	7/31/92 16 Ill Reg 11988	2/9/93
2/26/93	Illinois Planning Council on Developmental Disabilities, Grants (59 Ill Adm Code 400)	7/31/92 16 Ill Reg 11996	2/9/93
2/26/93	Department of Transportation, Construction in Floodways of Rivers, Lakes and Streams (92 Ill Adm Code 700)	11/13/92 16 Ill Reg 17235	2/9/93

SECOND NOTICES RECEIVED

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2/26/93	Department of Transportation, Regulation of Public Waters (92 Ill Adm Code 704)	11/13/92 16 Ill Reg 17244	2/9/93
3/1/93	Department of Public Aid, Medical Payment (89 Ill Adm Code 140)	11/13/92 16 Ill Reg 17209	2/9/93
3/1/93	Commissioner of Savings and Residential Finance, Residential Mortgage License Act of 1987 (38 Ill Adm Code 450)	11/20/92 16 Ill Reg 17570	2/9/93
3/1/93	Department of Revenue, Nursing Home Grant Assistance Act (86 Ill Adm Code 535)	10/9/92 16 Ill Reg 15340	2/9/93

PROCLAMATION

93-006
LAND SURVEYORS' MONTH

Whereas, land surveying is one of the oldest technical services of mankind. Our complex civilization depends more and more on surveyors' skills and accuracy to determine property rights and methods of design and construction; and

Whereas, the surveying skills of George Washington, the Commander-in-Chief of our Revolutionary Forces, may have had considerable influence on the winning of our national independence since Washington, a land surveyor before the war, directed the planning of military operations and selected the battle sites; and

Whereas, more than 80 years later when the states were threatened by a cruel division, another great president and former surveyor, Abraham Lincoln, was recognized as the "Savior of Our Country" after directing the campaigns that preserved our nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 1993 as LAND SURVEYORS' MONTH in Illinois in recognition of the two "Land Surveyor Presidents," George Washington and Abraham Lincoln, whose birthdays are observed this month.

Issued by the Governor January 5, 1993.

Filed with the Secretary of State January 14, 1993.

93-007
QUINCY SALVATION ARMY/100TH BIRTHDAY

Whereas, the Quincy Corps of the Salvation Army was founded in 1893 by Captain Noble and Lieutenant Wright; and

Whereas, the Quincy Corps helps about 800 individuals annually by visiting institutions, counseling individuals, and providing volunteers with opportunities to help others; and

Whereas, the Corps will celebrate its 100th year of service January 20, 1993;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 20, 1993, as the 100TH BIRTHDAY OF THE SALVATION ARMY OF QUINCY in Illinois and commend the organization on the dedication it has shown in improving the quality of life for our children.

Issued by the Governor January 5, 1993.

Filed with the Secretary of State January 14, 1993.

93-008
DR. MARTIN LUTHER KING DAY

Whereas, on January 15, 1993, Dr. Martin Luther King, Jr.

will be honored by a national holiday dedicated to his memory; and

Whereas, Illinois was the first state in the union to recognize the significant contributions of Dr. King by establishing a state holiday in 1973; and

Whereas, the state has coordinated activities that have provided an opportunity for our citizens to reflect upon the principles of racial equality, justice, and nonviolent social change; and

Whereas, Dr. King dedicated his life so that all Americans could enjoy the freedom the United States Constitution guarantees every citizen. In commemoration of Dr. King's birthday, Illinoisans should rededicate themselves to his profound message of justice and peace;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 15, 1993, as DR. MARTIN LUTHER KING DAY in Illinois and urge all Illinoisans to pay tribute to Dr. King.

Issued by the Governor January 8, 1993.

Filed with the Secretary of State January 14, 1993.

93-009
OPERATION UPLIFT DAY

Whereas, the Operation Uplift Training and Resource Center was founded in 1968 as a not-for-profit organization; and

Whereas, the center aims to foster socio-economic development strategies and opportunities for individuals who are unemployed, underemployed, unskilled, or lacking the academic and social skills needed to be a responsible, contributing member of society; and

Whereas, the center offers strong community-based services keyed to providing alternatives to illiteracy, unemployment, welfare dependency, and high school dropout syndrome; and

Whereas, 1993 marks Operation Uplift's 25th year of providing community service to more than 30 west suburban Cook County towns and villages and parts of Chicago's west side; and

Whereas, the organization will celebrate its 25th anniversary January 16, 1993, with its 5th Annual Dr. Martin Luther King Luncheon and a Silver Anniversary Awards Celebration;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 16, 1993, as OPERATION UPLIFT DAY in Illinois and commend the organization on its 25th year of community service.

Issued by the Governor January 8, 1993.

Filed with the Secretary of State January 14, 1993.

93-010
MID AMERICA HOUSING EXPO DAYS

Whereas, the success of the home building industry

contributes to the strength of our state's economy; and
Whereas, the Home Builders Association of Greater Chicago is
sponsoring the Mid America Housing Expo January 12-13, 1993; and
Whereas, the annual exposition showcases and demonstrates new
products and services that benefit both home builders and home
buyers;

Therefore, I, Jim Edgar, Governor of the State of Illinois,
proclaim January 12-13, 1993, as MID AMERICA HOUSING EXPO DAYS in
Illinois.

Issued by the Governor January 11, 1993.

Filed with the Secretary of State January 14, 1993.

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COMMERCE COMMISSION, ILLINOIS	
83 Ill. Adm. Code 255	Notice Requirements for Change in Rates for Cooling, Electric, Gas, Heating, Telecommunications, Sewer or Water Services (P-13703/92; A-798)
83 Ill. Adm. Code 315	Pole Attachment Rates, Terms & Conditions Applicable to Cable Television Companies & Electric & Telephone Public Utilities (P-202)
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17 Ill. Adm. Code 720	Taking of Wild Turkeys-Fall Archery Season (P-15260/92; A-281)
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56 Ill. Adm. Code 2732	Employment (P-211)
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56 Ill. Adm. Code 2520	Procedural (P-10)
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50 Ill. Adm. Code 805	Financial Futures Contracts (P-42) (E-154)
50 Ill. Adm. Code 2015	Infertility Coverage (P-696)
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	PP - Peremptory or Court Ordered Rules
	PP - Prohibited Filing Order by JCAR*
C - Notice of Corrections	RR - Refusal to meet JCAR Objection
CC - Codification Changes	RC - Statement of Recommendation
E - Emergency Rule	S - Suspension ordered by JCAR
ER - Emergency Repealer	W - Withdrawal to meet JCAR
M - Modification to meet JCAR objections	Objections
O - JCAR Statement of Objections	
RQ - Request for Correction	
EC - Expedited Corrections	
*Joint Committee on Administrative Rules	

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

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89 Ill. Adm. Code 377	Facilities & Programs Exempt from Licensure (P-7553/92; A-259)
89 Ill. Adm. Code 402	Licensing Standards for Foster Family Homes (P-11707/92; A-267)
89 Ill. Adm. Code 378	Multiple Licensure (PR-7561/92; AR-272)
89 Ill. Adm. Code 309	Review & Appeal Process (PR-7982/92; AR-1044)
89 Ill. Adm. Code 337	Service Appeal Process (P-7999/92; A-1046)
89 Ill. Adm. Code 302	Services Delivered by the Department (P-7565/92; A-274)

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89 Ill. Adm. Code 116 Crisis Assistance (P-13764/92; A-1078)
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89 Ill. Adm. Code 121 Food Stamps (P-13385/92; A-644)
89 Ill. Adm. Code 114 General Assistance (P-13395/92; A-1091)
89 Ill. Adm. Code 148 Hospital Services (P-10868/92; A-131)
89 Ill. Adm. Code 120 Medical Assistance Programs (P-711) (P-14544/92; A-1102)
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89 Ill. Adm. Code 104 Practice in Administrative Hearings (P-540) (E-659)
89 Ill. Adm. Code 147 Reimbursement for Nursing Costs for Geriatric Facilities (P-13215/92; A-1128)
89 Ill. Adm. Code 103 Support Responsibility of Relatives (P-14178/92; A-655)

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4 Ill. Adm. Code 1075 Americans With Disabilities Act Grievance Procedure (P-14182/92; A-142)

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77 Ill. Adm. Code 1120 Health Facilities Planning Financial & Economic Feasibility Review (E-5205/92; RC-1244)
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TYPE OF RULEMAKING

am = amendment to existing Section
cc = codification changes
n = new Section
r = repeal of existing Section
re = recodified
= renumbered

ACTION CODES

A = Adopted rule
C = Correction
P = Proposed Rule
E = Emergency rule
PP = Peremptory rule
M = Modification
W = Withdrawal
RQ = Request for Correction
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S = Suspension
O = ICAR Objection
R = Refusal to Modify
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370.103	n	(P-11713/92; A-319)	370.707	n	(P-11713/92; A-319)							2520.730	am	(P-10)				740.5	n	(P-585)
370.104	n	(P-11713/92; A-319)	370.801	n	(P-11713/92; A-319)							2520.740	#	(P-10)				740.10	am	(P-585)
370.105	n	(P-11713/92; A-319)	370.802	n	(P-11713/92; A-319)							2520.750	r	(P-10)				740.20	am	(P-585)
370.106	n	(P-11713/92; A-319)	370.901	n	(P-11713/92; A-319)							2520.760	am	(P-10)				740.30	n	(P-585)
370.107	n	(P-11713/92; A-319)	370.902	n	(P-11713/92; A-319)							2520.770	am	(P-10)				750.10	r	(P-762)
370.108	n	(P-11713/92; A-319)	370.903	n	(P-11713/92; A-319)							2520.780	am	(P-10)				750.10	r	(P-777)
370.109	n	(P-11713/92; A-319)	370.904	n	(P-11713/92; A-319)							2520.790	am	(P-10)				750.20	r	(P-762)
370.110	n	(P-11713/92; A-319)	370.1001	n	(P-11713/92; A-319)							2520.795	am	(P-10)				750.20	n	(P-777)
370.111	n	(P-11713/92; A-319)	370.1002	n	(P-11713/92; A-319)							2520.797	am	(P-10)				750.30	n	(P-762)
370.112	n	(P-11713/92; A-319)	370.1003	n	(P-11713/92; A-319)							2520.799	am	(P-10)				750.30	n	(P-777)
370.113	n	(P-11713/92; A-319)	370.1004	n	(P-11713/92; A-319)							2520.800	am	(P-10)				750.40	r	(P-762)
370.201	n	(P-11713/92; A-319)	370.1005	n	(P-11713/92; A-319)							2520.801	am	(P-10)				750.40	r	(P-777)
370.202	n	(P-11713/92; A-319)	370.1006	n	(P-11713/92; A-319)							2520.802	am	(P-10)				750.40	n	(P-762)
370.203	n	(P-11713/92; A-319)	370.1007	n	(P-11713/92; A-319)							2520.803	am	(P-10)				750.40	n	(P-777)
370.204	n	(P-11713/92; A-319)	370.1101	n	(P-11713/92; A-319)							2520.804	am	(P-10)				750.40	n	(P-762)
370.205	n	(P-11713/92; A-319)	TITLE 50									2520.805	am	(P-10)				750.40	n	(P-777)
370.206	n	(P-11713/92; A-319)	802.10	am	(P-44) (E-163)							2520.806	am	(P-10)				750.40	n	(P-762)
370.207	n	(P-11713/92; A-319)	802.20	am	(P-44) (E-163)							2520.807	am	(P-10)				750.40	n	(P-777)
370.208	n	(P-11713/92; A-319)	802.30	am	(P-44) (E-163)							2520.808	am	(P-10)				750.40	n	(P-762)
370.209	n	(P-11713/92; A-319)	802.40	am	(P-44) (E-163)							2520.809	am	(P-10)				750.40	n	(P-777)
370.210	n	(P-11713/92; A-319)	802.50	am	(P-44) (E-163)							2520.810	am	(P-10)				750.40	n	(P-762)
370.211	n	(P-11713/92; A-319)	802.60	am	(P-44) (E-163)							2520.811	am	(P-10)				750.40	n	(P-777)
370.212	n	(P-11713/92; A-319)	802.70	am	(P-44) (E-163)							2520.812	am	(P-10)				750.40	n	(P-762)
370.301	n	(P-11713/92; A-319)	802.80	am	(P-44) (E-163)							2520.813	am	(P-10)				750.40	n	(P-777)
370.302	n	(P-11713/92; A-319)	805.10	am	(P-42) (E-154)							2520.814	am	(P-10)				750.40	n	(P-762)
370.303	n	(P-11713/92; A-319)	805.20	am	(P-42) (E-154)							2520.815	am	(P-10)				750.40	n	(P-777)
370.304	n	(P-11713/92; A-319)	805.30	am	(P-42) (E-154)							2520.816	am	(P-10)				750.40	n	(P-762)
370.305	n	(P-11713/92; A-319)	805.40	am	(P-42) (E-154)							2520.817	am	(P-10)				750.40	n	(P-777)
370.401	n	(P-11713/92; A-319)	805.50	am	(P-42) (E-154)							2520.818	am	(P-10)				750.40	n	(P-762)
370.402	n	(P-11713/92; A-319)	805.60	am	(P-42) (E-154)							2520.819	am	(P-10)				750.40	n	(P-777)
370.501	n	(P-11713/92; A-319)	805.70	am	(P-42) (E-154)							2520.820	am	(P-10)				750.40	n	(P-762)
370.502	n	(P-11713/92; A-319)	932.20	am	(P-7279/92; O-1240)							2520.821	am	(P-10)				750.40	n	(P-777)
370.503	n	(P-11713/92; A-319)	932.30	am	(P-7279/92; O-1240)							2520.822	am	(P-10)				750.40	n	(P-762)
370.504	n	(P-11713/92; A-319)	932.60	am	(P-7279/92; O-1240)							2520.823	am	(P-10)				750.40	n	(P-777)
370.505	n	(P-11713/92; A-319)	2015.10	n	(P-696)							2520.824	am	(P-10)				750.40	n	(P-762)
370.506	n	(P-11713/92; A-319)	2015.20	n	(P-696)							2520.825	am	(P-10)				750.40	n	(P-777)
370.507	n	(P-11713/92; A-319)	2015.30	n	(P-696)							2520.826	am	(P-10)				750.40	n	(P-762)
370.601	n	(P-11713/92; A-319)	2015.40	n	(P-696)							2520.827	am	(P-10)				750.40	n	(P-777)
370.602	n	(P-11713/92; A-319)	2015.50	n	(P-696)							2520.828	am	(P-10)				750.40	n	(P-762)
370.603	n	(P-11713/92; A-319)	2015.60	n	(P-696)							2520.829	am	(P-10)				750.40	n	(P-777)
370.604	n	(P-11713/92; A-319)	TITLE 56									2520.830	am	(P-10)				750.40	n	(P-762)
370.605	n	(P-11713/92; A-319)	350.280	am	(P-3780/92; O-180; A-1074; R-1239)							2520.831	am	(P-10)				750.40	n	(P-777)
370.701	n	(P-11713/92; A-319)	2520.700	#	(P-10)							2520.832	am	(P-10)				750.40	n	(P-762)
370.702	n	(P-11713/92; A-319)	2520.700	am	(P-10)							2520.833	am	(P-10)				750.40	n	(P-777)
370.703	n	(P-11713/92; A-319)	2520.700	am	(P-10)							2520.834	am	(P-10)				750.40	n	(P-762)
370.704	n	(P-11713/92; A-319)	2520.710	am	(P-10)							2520.835	am	(P-10)				750.40	n	(P-777)
370.705	n	(P-11713/92; A-319)	2520.720	am	(P-10)							2520.836	am	(P-10)				750.40	n	(P-762)
370.706	n	(P-11713/92; A-319)	2520.730	am	(P-10)							2520.837	am	(P-10)				750.40	n	(P-777)
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750.1830 am	(P-723)	.Tb.M n (P-13179/92; A-590)
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785.355 n	(P-920)	TITLE 86
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785.1210 n	(P-920)	100.3400 am (P-222) (E-473)
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845.30 am	(P-12314/92; O-1243)	105.100 n (P-219) (E-445)
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1235.40 n	(E-432) (P-683)	105.320 n (P-219) (E-445)
1235.50 n	(E-432) (P-683)	105.330 n (P-219) (E-445)
1235.100 n	(E-432) (P-683)	105.340 n (P-219) (E-445)
1235.200 n	(E-432) (P-683)	105.400 n (P-219) (E-445)
1235.210 n	(E-432) (P-683)	105.410 n (P-219) (E-445)
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105.900 n	(P-219) (E-445)	147.150 am (P-13215/92; A-1128)
105.910 n	(P-219) (E-445)	147.205 am (P-13215/92; A-1128)
105.920 n	(P-219) (E-445)	148.80 am (P-10868/92; A-131)
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2520.225 n	(P-566)	
2520.225 r	(P-542)	
2520.226 n	(P-566)	
2520.226 r	(P-542)	
2520.300 n	(P-566)	
2520.300 r	(P-542)	
2520.301 n	(P-566)	
2520.301 r	(P-542)	
2520.302 n	(P-566)	
2520.302 r	(P-542)	
2520.303 n	(P-566)	
2520.303 r	(P-542)	
2520.304 n	(P-566)	
2520.304 r	(P-542)	
2520.305 n	(P-566)	
2520.305 r	(P-542)	
2520.400 n	(P-566)	
2520.400 r	(P-542)	
2520.401 n	(P-566)	
2520.401 r	(P-542)	

